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REGION 2 NEWS

Times Telegraph: EPA official to visit brownfield sites in Oneida, Herkimer counties

U.S. Environmental Protection Agency's Region 2 Regional Administrator Pete Lopez will be in the area Friday to visit three area brownfield sites, including the Duofold site in Ilion and the former Charlestown Mall property bordering Utica and Frankfort.

The Guardian: People of color more likely to live without piped water in richest US cities

People of color in some of America's wealthiest cities are significantly more likely to live in houses without indoor plumbing essential for running water, new research reveals.

Brooklyn Paper: OP-ED: A COMPLETE DISREGARD FOR NYCHA FAMILIES

Like most mothers, Jonquella Wheeler dedicates her life to her children. A resident of the Van Dyke Houses in Brownsville, Ms. Wheeler is raising her two boys as a single mother. In 2012, her life changed in the blink of an eye when she took her younger son Khemel for a routine doctor's visit. The doctor told her Khemel had tested positive for extremely elevated levels of lead in his blood.

Atlanta Journal-Constitution: Study: 'Nearly ubiquitous' cancer-linked chemicals in US water

A recent study has found a "nearly ubiquitous" level of synthetic chemicals in the predominant source of drinking water in the U.S.

Newsday: Senator urges Navy to connect Calverton residents to public water

Sen. Chuck Schumer is urging the U.S. Navy to develop a plan to connect residents living near a former Calverton naval weapons site to public water as contaminants have been detected in private wells.

Philadelphia Inquirer: Horseshoe crabs are bled by the thousands for medical tests every year. Some fear an escalation due to COVID-19.

Tens of thousands of horseshoe crabs from all over the East Coast climb like small army tanks from the Delaware Bay and onto soft, sandy beaches each spring, ready to spawn with females capable of laying 90,000 eggs a season.

The St. Croix Source: Limetree Bay Replaces Chief Executive Officer

Limetree Bay Ventures, LLC, the parent company that owns the Limetree Bay oil storage company and the nascent Limetree Bay Refining company that is trying to restart part of the former Hovensa refinery on St. Croix, announced Friday it has appointed Jeffrey Rinker as its chief executive officer, effective Nov. 11.

Times Herald-Record: Greens at Chester developers settle federal discrimination claims against Orange County

The developers of the 431-home Greens at Chester project have agreed to a partial settlement of their federal discrimination lawsuit that would end their claims against Orange County but not those against the Town of Chester.

The Buffalo News: What's the environmental impact of single-use PPE?

Dear EarthTalk: What's the environmental impact of all the single-use PPE we are throwing away now in huge numbers as a result of responding to the COVID-19 crisis?

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Times Telegram

<https://www.timestelegram.com/story/news/2020/11/02/epa-official-visit-brownfield-sites-oneida-herkimer-counties/6126043002/>

EPA official to visit brownfield sites in Oneida, Herkimer counties

By Donna Thompson

November 2, 2020

U.S. Environmental Protection Agency's Region 2 Regional Administrator Pete Lopez will be in the area Friday to visit three area brownfield sites, including the Duofold site in Ilion and the former Charlestown Mall property bordering Utica and Frankfort.

Lopez will also tour the Navigation Center at 500 Harbor Way in Rome, according to the Herkimer County Industrial Development Agency (IDA).

"We are excited to have Pete Lopez come to not only Herkimer County, but our entire region," IDA Executive Director John Piseck said in a statement. "Herkimer County is dedicated to the improvement and redevelopment of brownfield sites."

The Environmental Protection Agency's Brownfields Program provides grants and technical assistance to communities, states, tribes and others to assess, safely clean up and sustainably reuse contaminated properties.

"In communities across New York and the nation, EPA is working with local and state governments to pave the way for an effective reuse of properties that have been impacted by contamination," Lopez said in a

statement. “Through its Brownfields program, EPA has leveraged over \$33 billion and created more than 170,000 jobs nationwide. I am so pleased to join the Herkimer County Industrial Development Agency and our other partners for this tour as the IDA shares its program successes and highlights areas in need of additional attention and support.”

The EPA Brownfields Program, which began in 1995, has provided nearly \$1.6 billion in grants to assess and clean up contaminated properties, according to the IDA.

The CharlesTown complex, located on Bleecker Street, was destroyed in an Aug. 27 fire after years of smaller fires and vandalism. Built in the early 1900s, the structure fell into disrepair in the early 2000s. Prior to the August fire, a developer was planning to remove and sell the brick and timber from the complex and clear the site for future development, officials have said.

With the Duofold site, environmental consultants took soil samples in Ilion in late August as part of the second phase of the Environmental Site Assessment for a brownfield redevelopment project. Cleanup is the next step at the site, which has been vacant for more than two decades, said John Piseck, executive director of the Herkimer County IDA. The village of Ilion purchased the Duofold property in March 2019.

The Navigation Center in Rome opened in 2017 in Bellamy Harbor Park in the city’s Erie Canal waterfront.

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The Guardian

<https://www.theguardian.com/environment/2020/nov/02/people-of-color-piped-water-us>

People of color more likely to live without piped water in richest US cities

Study finds more than 1.1m people live without indoor plumbing, with largest number of homes in New York and Los Angeles

By Nina Lakhani

November 2, 2020

People of color in some of America’s wealthiest cities are significantly more likely to live in houses without indoor plumbing essential for running water, new research reveals.

Clean, safe, affordable water is essential for human health and economic survival. Yet access to running water is not universal in the United States, ostensibly the richest country in the world.

Nationwide, almost half a million homes do not have piped water, with the majority – 73% – located in urban areas. In fact, almost half the houses without plumbing are located in the country’s top 50 cities.

Among these, San Francisco, Portland, Milwaukee, San Antonio, Austin and Cleveland have the highest proportion of plumbing poverty, according to the new study published in the Proceedings of the National Academy of Sciences. The largest actual number of homes without piped water were found in New York and Los Angeles.

Using census data from 2013 to 2017, researchers from King’s College London (KCL) found that inequities in water access – like other essential basic services – are racialized in the US.

Households headed by people of color are almost 35% more likely to live without piped water as compared to white households.

In addition, plumbing poverty is also predicted by income inequality and precarious housing conditions such as living in rental accommodation and mobile homes.

“Problems of infrastructure provision reflect long-held and institutionalized ideas of who belongs – and who is excluded – from the social fabric, and the resources and benefits we might take for granted like water,” said lead researcher Katie Meehan, senior lecturer in human geography at KCL.

The findings add to a mounting body of evidence which reveal widespread inequities in access to clean, safe, affordable water in the US in 2020.

Earlier this year, a [landmark investigation by the Guardian](#) found that millions of ordinary Americans are facing rising and unaffordable bills for running water, and risk being disconnected or losing their homes if they cannot pay.

Almost 90 Democrat lawmakers [have co-sponsored legislation](#), the Water Act, which would secure \$35bn a year to overhaul the nation’s water infrastructure in order to guarantee every American access to clean, affordable running water.

Meehan agrees that comprehensive action is needed. “Systemic problems demand systemic change. Eradicating racialized poverty requires a massive public effort and commitment to transforming the very nature of our economy and social order.”

But, things look likely to get worse before they get better as a result of widening economic inequalities, rising rents and a decline in home ownership since the Great Recession.

Meehan said: “In light of such trends, we expect conditions of water access to deteriorate, especially in cities such as San Francisco, Portland and Los Angeles.”

Overall, the study estimates that just over 1.1 million people live in homes without indoor plumbing. Yet the true number is likely to be much higher as the census routinely undercounts marginalized groups including renters, communities of color and people experiencing homelessness.

In addition to the big cities, clusters of plumbing poverty are also found in regions such as the Rust Belt, greater Appalachia, south-central Florida, Alaska, the lower Mississippi Delta/Louisiana Bayou, and the Four Corners region including the Hopi Reservation and Navajo Nation.

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Atlanta Journal-Constitution

<https://www.ajc.com/life/study-nearly-ubiquitous-cancer-linked-chemicals-in-us-water/HIFUDJUQXJEZ7KQ6SXU2SZLGPU/>

Study: ‘Nearly ubiquitous’ cancer-linked chemicals in US water

By Kiersten Willis

November 2, 2020

A recent study has found a “nearly ubiquitous” level of synthetic chemicals in the predominant source of drinking water in the U.S. — surface water.

Researchers with the Environmental Working Group have estimated that over 200 million Americans could have toxic fluorinated chemicals called PFAS at or above the minimum recommended safe level.

In the study, which was published in the journal “Environmental Science & Technology Letters” on Oct. 14, scientists examined publicly accessible drinking water testing results from the Environmental Protection Agency and U.S. Geological Survey. They also reviewed state levels through testing by North Carolina, Kentucky, Colorado, Michigan, New Hampshire, New Jersey and Rhode Island.

Also included were laboratory tests commissioned by EWG that found PFAS chemicals in the drinking water of dozens of U.S. cities. Major metropolitan areas including New Orleans, Miami, Philadelphia and the northern New Jersey suburbs of New York City had some of the highest PFAS levels detected in their samples.

“We know drinking water is a major source of exposure of these toxic chemicals,” Dr. Olga Naidenko, vice president for science investigations at EWG and a co-author of the recent study said in a press release. “This new paper shows that PFAS pollution is affecting even more Americans than we previously estimated. PFAS are likely detectable in all major water supplies in the U.S., almost certainly in all that use surface water.”

A study from the National Institutes of Health noted about 97% of people in the U.S. have distinguishable levels of PFAS in their blood.

According to Medical News Today, epidemiological studies link high blood serum levels of two PFAS in particular — PFOA and PFOS— to weakened immunity, thyroid disease and high cholesterol.

There has also been a study that reviewed a local population with exposure to high PFOA levels in drinking water due to chemical plant emissions. Researchers discovered an association between the chemicals and testicular cancer and kidney cancers.

In the new study, researchers wrote that they found “that mixtures of PFAS are nearly ubiquitous in surface water, the predominate source of drinking water for the U.S. population.

“We estimate that 18–80 million people in the U.S. receive tap water with 10 ng/L or greater concentration of perfluorooctanoic acid (PFOA) and perfluorooctanesulfonate (PFOS) combined, and over 200 million people likely receive water with a PFOA and PFOS concentration at or above 1 ng/L,” they continued.

No federal standards exist for PFOS and in their absence, states have established their own.

New Jersey issued a maximum contaminant limit for the compound PFNA, first putting the maximum at 13 ppt. It has set standards of 13 ppt for PFOS and 14 ppt for PFOA. Other states have established or proposed limits on the substances, including California, New York and Michigan.

“The first step in fighting any contamination crisis is to turn off the tap,” Scott Faber, EWG senior vice president for government affairs said in a statement. “The second step is to set a drinking water standard, and the third is to clean up legacy pollution. The PFAS Action Act passed by the House would address all three steps by setting deadlines for limiting industrial PFAS releases, setting a two-year deadline for a drinking water standard, and designating PFAS as ‘hazardous substances’ under the Superfund law. But Mitch McConnell’s Senate has refused to act to protect our communities from ‘forever chemicals.’”

EWG is a nonprofit, nonpartisan group with the mission of enabling people to “live healthier lives in a healthier environment,” according to the website.

For more on the group’s study, see the announcement here.

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Brooklyn Paper

<https://www.brooklynpaper.com/op-ed-a-complete-disregard-for-nycha-families/>

OP-ED: A COMPLETE DISREGARD FOR NYCHA FAMILIES

By Eric Adams

October 30, 2020

Like most mothers, Jonquella Wheeler dedicates her life to her children. A resident of the Van Dyke Houses in Brownsville, Ms. Wheeler is raising her two boys as a single mother. In 2012, her life changed in the blink of an eye when she took her younger son Khemel for a routine doctor's visit. The doctor told her Khemel had tested positive for extremely elevated levels of lead in his blood.

Following her son's diagnosis, Department of Health inspectors showed up at her apartment and detected the presence of lead paint. Most was coming from exposed pipes in her living room. Lead is a well-known neurotoxin that can cause a variety of issues, particularly when those exposed are under the age of six. Ms. Wheeler was heartbroken, but she knew she couldn't remain silent.

Since her son's diagnosis, she has spoken out about how she feels the city has failed Khemel, who is now 10 and suffering from symptoms of lead poisoning.

Ms. Wheeler's story is far from unique, and she bravely shared it again as we stood outside Van Dyke Houses on the weekend of Oct. 25. The Thursday before, Bart Schwartz, the federal monitor for NYCHA, had revealed that 9,000 apartments that had children living in or spending significant time there contained lead paint — more than triple the amount previously thought.

That list of 9,000 includes apartments of relatives where children spent more than 10 hours a week. NYCHA previously acknowledged back in 2018 that 3,000 apartments had lead hazards. And that updated figure still may be an underestimate of the extent of the issue. Recent reporting by nonprofit newsroom The City indicates that the real number of apartments in NYCHA with lead hazards may be closer to 20,000.

In any other year, this would be considered the biggest governmental failure in recent memory. It underscores the complete disregard the city has shown to Black and brown children, who comprise the vast majority of children living in NYCHA. I can't help but think that if the widespread presence of lead were detected in Sutton Place in Manhattan, and not Sutter Avenue in Brownsville, the city's response would be very different.

The only way we will see a long-term turnaround at NYCHA is real-time data-driven accountability and transparency of its asset management. Every boiler in need of repair, or apartment with lead paint, or any other maintenance issue across the 334 developments and 178,895 apartments that comprise NYCHA should be tracked and consistently updated in a centralized database. I laid out a plan to do just that, called NYCHASat, two years ago. The city has committed to implementing it, but we have yet to see any progress.

Right now, however, our focus needs to be on expedited remediation efforts. Every day that children continue to spend time in apartments with lead paint only increases their risk of exposure. We simply cannot wait for NYCHA's new capital revenue plan to fund these efforts, which will take years. Congress and the White House must add the full cost of NYCHA lead remediation into the stimulus package being negotiated so that we can clean up all apartments immediately. NYCHA should also fast-track contracting procedures, and immediately engage any city-based company licensed to do this remediation work that will pay prevailing wage.

And because they have already failed to uphold their most basic responsibility to keep tenants safe, NYCHA must not charge rent to any tenant living in any apartment found to contain lead until it is fully remediated. We also need real accountability for these failures.

The horrifying story Ms. Wheeler shared is that of so many families living in public housing. They feel ignored and overlooked. They feel beaten down by the routine indignities they're forced to endure. They feel like second-class citizens. They feel voiceless.

We owe it to Ms. Wheeler, Khemel, and the thousands of other families suffering right now to continue amplifying their voices.

Eric Adams is borough president of Brooklyn. He served 22 years in the New York City Police Department (NYPD), retiring at the rank of captain, as well as represented District 20 in the New York State Senate from 2006 until his election as borough president in 2013

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Newsday

<https://www.newsday.com/long-island/suffolk/calverton-water-navy-schumer-1.50054868>

Senator urges Navy to connect Calverton residents to public water

By Vera Chinese

November 2, 2020



Sen. Chuck Schumer is urging the U.S. Navy to develop a plan to connect residents living near a former Calverton naval weapons site to public water as contaminants have been detected in private wells.

The senator is also asking the Navy to expand its investigation into toxic chemicals flowing from the facility, which was owned by the federal government and operated by Northrop Grumman Corp. until 1996.

In a letter to Navy Secretary Kenneth Braithwaite sent on Oct. 28, Schumer (D-N.Y.) noted that the levels of perfluorooctane sulfonate (PFOS) and perfluorooctanoic acid (PFOA) detected in nearby drinking wells exceed state standards adopted for those compounds in July.

"This new reality requires immediate attention and action from the Navy, specifically, to provide public drinking water to the impacted homes and an expanded investigation into other potentially impacted water supplies further downgradient of the known release sites," Schumer wrote in the letter.

Representatives in the Navy public affairs office did not respond to request for comment.

New York on July 30 adopted a standard of 10 parts per trillion for PFOS, found in firefighting foams, and PFOA, used in nonstick and stain-resistant products. It also adopted the nation's first standard for 1,4-dioxane, an industrial solvent and likely carcinogen, at 1 part per billion.

Eighteen of the 25 samples taken from test wells detected 1,4-dioxane with seven times above the state standard, but no private wells have been sampled by the Navy for the compound to date, Schumer said. Four private wells sampled by the Navy in 2018 showed detections of PFOS/PFOA ranging from 4.61 ppt to 16.83 ppt. The Navy at the time said that none of the samples exceeded the federal health advisory level of 70 ppt.

The Suffolk County Department of Health is also sampling private wells in the vicinity. Spokeswoman Grace Kelly-McGovern said of the 22 samples analyzed to date, one detected PFOS/PFOA at 98.5 ppt and three others showed detections below the state standard. Dozens of other tests and results are still pending.

The senator said less than a mile of water main would probably need to be extended to connect residents in the area. Public water, unlike private wells, is regularly tested and treated for contaminants.

"When you live that close to a Superfund site, private wells need to be tested," said Adrienne Esposito, executive director of the environmental advocacy group Citizens Campaign for the Environment. "The Navy is really failing the public."

Ultimately, the Navy and the state would work together to determine if the federal government must adhere to the state's standards, according to Schumer's office. The Navy is scheduled to hold its next virtual Restoration Advisory Board meeting on Nov. 12 at 7 p.m.

"We have been dealing with this issue for many years," said Kelly McClinchy, a Manorville resident who lives south of the property and has spoken out on the issue. "Our ultimate goal is to get public water extended to us, so we know we are getting safe clean water every time we turn on the tap."

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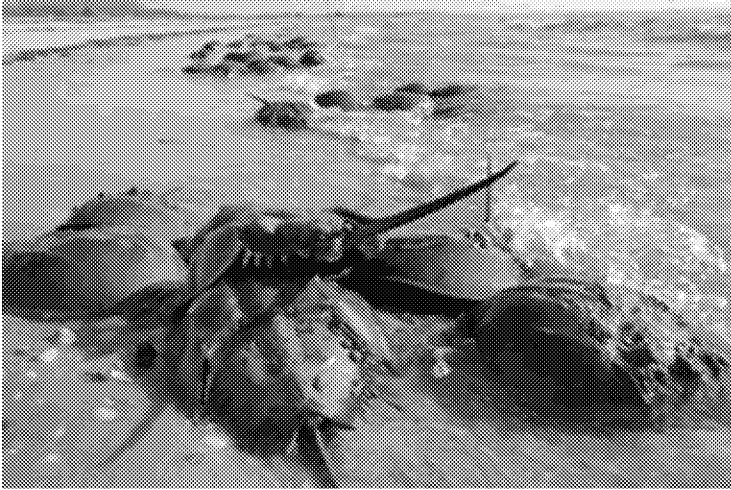
Philadelphia Inquirer

<https://www.inquirer.com/science/climate/horseshoe-crabs-new-jersey-delaware-bay-red-knots-20201102.html>

Horseshoe crabs are bled by the thousands for medical tests every year. Some fear an escalation due to COVID-19.

By Frank Kummer

November 2, 2020



Tens of thousands of horseshoe crabs from all over the East Coast climb like small army tanks from the Delaware Bay and onto soft, sandy beaches each spring, ready to spawn with females capable of laying 90,000 eggs a season.

They also carry within them a highly prized, copper-based, blue-colored blood that's used worldwide for testing vaccines and medical devices for toxins. In fact, up to 750,000 horseshoe crabs were taken from waterbodies last year, and transported to labs. There, up to 40% of their blood was drawn by needles before they were released back into the wild.

Research has shown that up to 30% of horseshoe crabs tested can die as a result of the blood extraction process, say the [Horseshoe Crab Recovery Coalition](#), though specific numbers are hard to track. The need for a worldwide vaccine for COVID-19 has stoked fresh worries about the steady decline of horseshoe crabs as more of their blood might be needed for testing, leading to more deaths and an impact on spawning. Horseshoe crabs that have had blood taken have showed less movement, a necessity for breeding and spawning to keep populations thriving.

"In a technologically advanced society, there has to be a better way," said Eric Stiles, president and CEO of New Jersey Audubon.

Stiles has taken a lead role in the Horseshoe Crab Recovery Coalition, a group of 30 organizations that recently briefed congressional staff members on the issue. The coalition is urging that a synthetic alternative to blood be used instead.

"Fortunately a synthetic alternative exists that would conserve this iconic species without compromising human health," Stiles said.

Though horseshoe crabs are native to the Mid-Atlantic, they are closely identified with the Delaware Bay, the part of the Delaware River estuary that borders New Jersey and Delaware before emptying into the Atlantic Ocean. Their eggs provide food for 11 migrating bird species such as the red knot, a federally threatened species.

They are not considered endangered, but the number of Atlantic horseshoe crabs has been declining since at least the 1990s, according to the National Oceanic and Atmospheric Administration, citing habitat loss and demand as commercial bait.

Horseshoe crabs are not really crabs but more distant cousins to spiders. They are not venomous or dangerous, and their ancestors date back 450 million years. Their blood contains Limulus Amoebocyte Lysate (LAL), which clots in the presence of bacteria and is used by researchers to detect toxins that could find their way into vaccines, needles, and medical equipment that go into human bodies.

That blood is valued at \$15,000 a quart.

The coalition is in favor of greater adoption of recombinant Factor C (rFC), a synthetic alternative to the blood. It is already being used in the manufacturing of two marketed medicines, according to the coalition, and is recognized

as an alternative by the European Pharmacopoeia, which helps to establish standards and protocols in the European Union.

The U.S. Pharmacopeia has yet to adopt a similar measure, and said in a statement that it supports investigating the use of rFC as part of an overall goal to move towards animal-free testing, but its mission is “first and foremost to protect patients and improve public health.”

“At this point in time, however, endotoxin tests using rFC do not benefit from the same level of real-world evidence as LAL” the statement said, adding that, “a lot is at stake. One adverse incident ... could damage overall trust in vaccines or other injectables, already plagued by misinformation.”

The USP has a proposal that could lead to a pathway for use of rFC as an alternative, if it can be shown as comparable to LAL. The proposal is now in a public comment period.

The Horseshoe Crab Coalition calls the USP’s proposal “a lengthy and burdensome pathway.”

“The COVID-19 pandemic is likely to lead to major increases in the use of horseshoe crab blood, as the nearly 200 vaccines and over 60 injectable therapies in development for COVID-19 will all need to be tested multiple times for fever-inducing contaminants,” Elizabeth Baker, pharmaceutical policy program director of the Physicians Committee for Responsible Medicine, said in a statement. “As is often the case, policy is lagging behind the science. We must act now to remove unnecessary barriers to industry use of rFC.”

The coalition is asking members of Congress to urge the U.S. Pharmacopeia to acknowledge that rFC is equivalent to the product derived from horseshoe crab blood. It is also urging the FDA to review existing regulations and guidance.

The coalition also wants to see better regulation of the use of horseshoe crabs for bait, and the bleeding process.

New Jersey implemented a moratorium in 2008 of harvesting horseshoe crabs from May 1 through June 7 each year, and only one person carries a special permit to bleed crabs in the state. In addition, South Carolina limits the harvest of horseshoe crabs to biomedical bleeding.

Other states have no such protections. Yet, the horseshoe crabs are found from Maine to Florida. The Delaware Bay is the biggest spawning ground in the world for the horseshoe crab, so practices in other states influence spawning.

Stiles said horseshoe crabs are vital to the New Jersey economy. Tens of thousands of birders flock to Cape May starting in the spring to catch glimpses of migrating birds such as the red knots and ruddy terns that feast on the bay on their long journeys to the Antarctic.

“When you look at birding in Cape May,” Stiles said. “It is a multi hundred million dollar industry ... if you go to the Delaware Bay to watch these horseshoe crabs and shorebirds, and part of your soul doesn’t melt, you’re not human.”

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The St. Croix Source

<https://stcroixsource.com/2020/11/02/limetree-bay-replaces-chief-executive-officer/>

Limetree Bay Replaces Chief Executive Officer

November 2, 2020



Limetree Bay Ventures, LLC, the parent company that owns the Limetree Bay oil storage company and the nascent Limetree Bay Refining company that is trying to restart part of the former Hovensa refinery on St. Croix, announced Friday it has appointed Jeffrey Rinker as its chief executive officer, effective Nov. 11.

Rinker will lead the company's combined refinery and terminal organizations, replacing Brian Lever, who will remain with the company through Nov. 30.

"We are thrilled to welcome Jeff to Limetree Bay as CEO," R. Blair Thomas, chairman of the company's board of directors and CEO of EIG Global Energy Partners, Limetree Bay's controlling shareholder, said in a press release announcing the change of leadership.

"Limetree Bay made significant progress in 2020 and we are confident that Jeff's deep industry experience and strong track record of delivering commercial results and creating shareholder value make him the ideal person to lead the company during its next chapter of commercial operation."

Limetree Bay initially aimed to restart the refinery in January of this year, but has seen delays, in part due to the COVID-19 pandemic. The profitability of the refinery reopening is tied to new sulfur regulations for marine fuel that went into effect at the beginning of the year. The refinery has existing equipment designed to remove sulfur from high sulfur Venezuelan crude, giving it a potential temporary cost advantage over other refineries for producing very low-sulfur bunker fuel.

Reuters reported in October that the delays may jeopardize Limetree's contract with BP to buy crude oil and sell refined products if the refinery does not restart by the end of this year. Limetree officials have not responded to requests for clarification as of Oct. 30.

Before taking on the job at Limetree Bay, the British-born Lever was CEO of Hovensa for its last year of operation. He came out of retirement after a 32-year career at ConocoPhillips to take the top post at Hovensa in June and try to turn the troubled refinery around.

According to the company's news release, Rinker most recently served as executive vice president, downstream and midstream for Husky Energy, where he was reportedly responsible for leadership of Husky's downstream business, including refining, upgrading, marketing, trading and delivering improved safety, reliability and profitability. Before joining Husky Energy in 2017, Rinker held various roles of increasing responsibilities at OMV Group and BP plc. He has a bachelor's in chemical engineering from Carnegie Mellon University.

"I am honored by the opportunity to join Limetree Bay as CEO," Rinker said in the release. "Limetree Bay is an exciting project that is well-positioned to succeed given its recent operating momentum, strategic location and world-class partners and facilities. I look forward to getting started and working with Limetree Bay's talented team to drive further growth for the company and bring value to all our stakeholders."

“On behalf of the entire board, I’d like to thank Brian for his hard work and tremendous contributions to the growth and development of Limetree Bay during his tenure,” Thomas said. “Brian was brought on two years ago to lead the refinery restart project and its integration with Limetree Bay’s world-class terminal facilities and, as we approached completion of the restart project, Brian and the board agreed that it was a natural time to transition leadership to a long-term CEO. We are thankful for Brian’s efforts and wish him the best in his retirement.”

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Times Herald-Record

<https://www.recordonline.com/story/news/local/2020/11/02/judge-approved-partial-settlement-greens-chester-lawsuit/6120839002/>

Greens at Chester developers settle federal discrimination claims against Orange County

By Chris McKenna

November 2, 2020

CHESTER - The developers of the 431-home Greens at Chester project have agreed to a partial settlement of their federal discrimination lawsuit that would end their claims against Orange County but not those against the Town of Chester.

Under a 21-page settlement approved by a judge on Monday, county officials agreed to defer any decisions about the quality and adequacy of the development's wells to two state agencies, without influencing that evaluation. They also pledged to accept wastewater from the project at the county-owned treatment plant in Harriman if Chester has enough remaining allotment at the plant.

Except for an agreed-upon letter from the county health commissioner to affirm the project, "the County acknowledges that The Greens Development is fully approved by the County with respect to any approvals it has the power to grant," the settlement read.



Under the terms, County Executive Steve Neuhaus and the county government admitted no wrongdoing and paid no damages to the developers.

Filed in July 2019, the lawsuit contended that town and county officials had obstructed the development plans to prevent an influx of Hasidic families, in violation of the Constitution and Fair Housing Act. State Attorney General Letitia James later joined the case in support of the developers.

Town officials deny the discrimination claims and say they denied the developers building permits because their house sizes exceeded what the town approved. They issued permits for a pair of attached houses in September

- the first homes in the development to be started - after the developers posted an \$11 million bond for infrastructure.

The settlement Judge Philip Halpern approved on Monday requires the county to respond within 30 days to the developer's applications for a "potential bathing or swimming facility." County officials also pledged to answer within 20 days any correspondence from the developers or their consultants and respond to any phone calls within two days.

Jehuda Landau, managing member of the Greens at Chester LLC, and Neuhaus signed the proposed settlement last week before it was filed in court on Friday.

The developers' claims against town officials are still pending in court. Livy Schwartz, one of the developers, told the Times Herald-Record on Monday that the town has now issued permits for seven homes in all, six of which are under construction.

A notice last month from the state Department of Environmental Conservation indicated the developers had applied to drill two additional wells.

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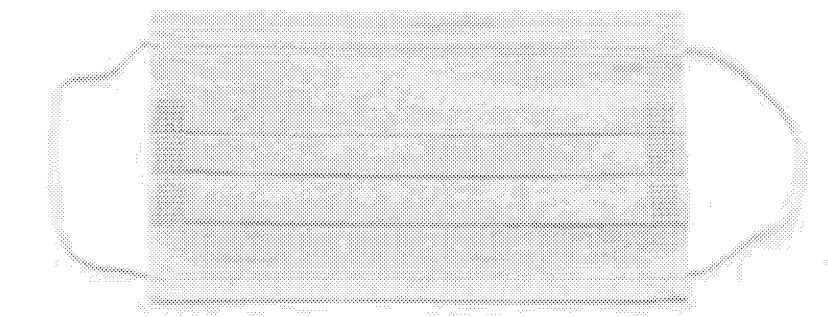
The Buffalo News

https://buffalonews.com/lifestyles/whats-the-environmental-impact-of-single-use-ppe/article_112918cf-80cb-5fbf-8574-3347cd6a334a.html

What's the environmental impact of single-use PPE?

By E/The Environmental Magazine, Emagazine.com (TNS)

October 31, 2020



Dear EarthTalk: What's the environmental impact of all the single-use PPE we are throwing away now in huge numbers as a result of responding to the COVID-19 crisis?

There's no question about it: All the disposable personal protective equipment (PPE) in our waste stream is taking a toll on the environment. A recent study in the journal Environmental Science & Technology found that

we are using some 129 billion disposable masks and 65 billion disposable gloves every month around the world nowadays as we try to stay safe in the midst of the worst pandemic to hit the human race in a century.

Most of the masks in the U.S. are made out of polypropylene-based plastic, but some are made from related forms of plastic such as polystyrene, polycarbonate, polyethylene or polyester. These synthetic fibers are designed to resist liquids and do not biodegrade in the environment once discarded, instead breaking down into smaller and smaller pieces of plastic that end up in landfills or, even worse, as litter that finds its way into waterways and the ocean.

Some of the discarded PPE ends up in medical waste bins and is shipped off to an incinerator for disposal, which unfortunately may not be any better for our health or the environment. According to the U.S. Environmental Protection Agency (EPA), incinerators send particulate matter, heavy metals, acid gases, nitrogen oxides, carbon monoxide and other noxious pollutants airborne. As such, environmental advocates aren't happy about a plan by the United Nations to help communities around the world set up their own small local incinerators to deal with PPE and other COVID-related waste.

Meanwhile, reusable masks may have a longer life as a useful product, but that doesn't mean they'll necessarily biodegrade in the environment when their time comes. Most are made from cheap synthetic fabrics like nylon or polyester and are prone to breakage and short lifespans, and can last even longer and wreak more havoc when littered into the environment.

The upshot of all this is that we'll have discarded PPE from the pandemic around for a lot longer than we would like. It joins the rotting plastic that sits in landfills, washes up on beaches and floats in oceans, amounting to more than five trillion plastic particles contaminating the world's surface waters. The particles are toxic to ecosystems and wildlife. Marine creatures can mistake mask remnants and fibers for food, and/or can get entangled in them so they can't hunt, feed or eat.

So what can we do to offset, or even halt the impact? The pandemic continues, but by choosing reusable, biodegradable masks, we can reduce the demand and consumption of PPE. Eco-friendly alternatives are available — or you can make your own using salvaged fabric and online craft guides. The Hemp Foundation and Tentree sell masks made from biodegradable and repurposed materials. Meanwhile, Bambooo's bamboo masks are made out of sustainably sourced, pesticide-free bamboo, and Planet Organics' cotton/rubber varieties are also attractive and easy on the environment.

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NATIONAL

A Staff Slams Trump's Anti-Diversity Orders: 'They Are Punitive And Demeaning'

https://www.huffpost.com/entry/epa-trump-diversity_n_5f9c6e7cc5b6cfec2f6d844b

By Alexander C. Kaufman and Emily Peck

2 Nov 2020

Agency employees signed on to the most vocal condemnation from within the government of the president's orders yet.

Environmental Protection Agency staffers are organizing against President Donald Trump's recent executive order banning diversity trainings, mounting what may be the fiercest opposition to Trump administration policy from within to date.

By Monday morning, at least 80 employees in the agency's Office of General Counsel — more than one-third of staffers there — signed on to a statement warning that Trump's move will "result in further institutionalizing racism in the federal government" and "fly in the face of freedom of speech under the First Amendment," according to a copy of the letter HuffPost obtained. Combined, the signatories represent more than 1,000 years of service to the agency.

"We reject the approach of these directives," the letter read. "They are punitive and demeaning to federal employees, contractors, and grantees — especially those who are Black, Indigenous, and People of Color. These directives both perpetuate and amplify the harmful stereotyping they purport to discourage."

The White House issued an executive order on Sept. 22, following a segment on Fox News about diversity training that apparently caught the president's attention. The order claims that certain kinds of anti-racism and anti-sexism trainings are "un-American," particularly those that teach such concepts as systemic racism, white privilege and unconscious bias, and effectively bans all such training within the federal government and any entity that contracts with or accepts funding from the federal government.

The crackdown on trainings that have been standard in the work world for decades has been widely condemned outside the corners of Fox News and the right-wing media. Last week, two civil rights groups, represented by the NAACP Legal Defense Fund, filed suit against the administration in federal court, arguing that the order is an unconstitutional restriction on free speech and asking that the order be immediately rescinded.

Inside federal agencies, the pushback had been more quiet, with most federal workers terrified to speak up for fear of retaliation. And the letter from the EPA appears to be the most vocal condemnation of the ban from inside the government. It had been in the works for weeks as staffers weighed a response against increasingly strict guidance from the White House's Office of Management and Budget and Office of Personnel Management on how to interpret the executive orders.

The final letter, dated Nov. 1, comes less than a week after HuffPost reported that an LGBTQ Pride event inside the EPA had been canceled because of the executive order.

"The President's Executive Order makes clear that the federal government is 'committed to the fair and equal treatment of all individuals before the law' and recognizes that the fundamental tenet of our nation is 'that all individuals are created equal and should be allowed an equal opportunity under the law to pursue happiness and prosper based on individual merit,'" James Hewitt, an EPA spokesman, said in an emailed statement. "EPA is committed to maintaining fair and equal treatment of every individual who works at the Agency, and the President's Executive Order is fully consistent with these principles."

The EPA's legal department, which also carries out the agency's civil rights and ethics work, formed a task force on racism following several incidents that exposed inequities within its own office culture.

Racist incidents from 2018 cast the agency as a federal department desperately in need of introspection.

That year, someone left printouts of two apes scrolled with the N-word and the message "back to the jungle u go!" on the desk of an African American employee in the Office of Chemical Safety and Pollution Prevention, the trade publication Government Executive reported. Months later, a contractor allegedly wrote racist messages on a whiteboard in the Office of Public Affairs.

"This executive order came out and basically said the fact that we've been doing this work and creating an opportunity for some hard conversations and healing is 'un-American' and 'propaganda.'"

—EPA employee

But within the EPA's Office of General Counsel, more subtle indignities were commonplace, an employee who spoke on condition of anonymity for fear of reprisal told HuffPost. White staffers repeatedly mistook Black and South Asian colleagues for other co-workers of their same ethnicity, the employee said. Black attorneys in the office were at times presumed to be support staff. The office committee on anti-racism led talks and exercises that helped bring these issues to the fore and facilitate apologies and more respectful dialogue.

"This executive order came out and basically said the fact that we've been doing this work and creating an opportunity for some hard conversations and healing is 'un-American' and 'propaganda,'" the employee said. "So all of this nonsense hit our office particularly hard, because we had made this really deliberate choice to engage in that work that we knew needed to be done."

The orders didn't force the committee to disband. But it "drove those conversations underground," the staffer said.

"It was like the rug being pulled out from under you," the employee said. "It's had a massive, massive chilling effect."

The agency also appeared to halt work on the racial disparities in pollution that EPA Administrator Andrew Wheeler actually vowed to expand if Trump won a second term. On Friday, Sen. Tammy Duckworth (D-Ill.), Sen. Cory Booker (D-N.J.) and Rep. Donald McEachin (D-Va.) sent a letter to Wheeler demanding answers on why the EPA canceled events on environmental justice.

"As our country continues to address the coronavirus pandemic, which is disproportionately impacting members of environmental justice communities, we believe that diversity and anti-racism trainings are needed now more than ever," the lawmakers wrote. "To write off real differences in outcomes among demographic groups as merely divisive rhetoric represents a reckless refusal to do the job that the American people need and a dangerous minimization of the problem."

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Barrett sits on the Supreme Court for the first argument.

<https://washingtonnewsday.com/us-politics/barrett-sits-on-the-supreme-court-for-the-first-argument/>

BY JONATHAN EDWARDS ON NOVEMBER 2, 2020

Judge Amy Coney Barrett attended her first Supreme Court hearing on Monday, after she took the bench last week after a controversial confirmation hearing in the Senate.

Chief Justice John Roberts welcomed her ahead of arguments in a case involving an environmental group seeking access to the EPA's records.

"It is a great pleasure on my own behalf and on behalf of my colleagues to welcome Judge Barrett to the court," said Roberts.

Barrett did not attend a series of closely watched court hearings last week, which involved disputes over the extension of postal voting due dates in Pennsylvania and North Carolina.

Monday's arguments were presented over the phone as part of the Supreme Court's coronavirus security measures. Roberts asked the first set of questions, followed by the other judges in order of seniority, with Barrett going last.

"I would like to pick up on this thread that Judge Kavanaugh has just explored with you," Barrett told Matthew Guarnieri, a Justice Department attorney who advocated the government's interest in keeping the EPA records confidential under an exemption from the Freedom of Information Act (FOIA).

"They said that if a government official would simply stamp a 'draft' on it and send it over... to circumvent the disclosure requirements of the FOIA, you said that a court could consider other factors to determine whether it was still final," she said. "What other factors would a court consider?"

A decision in this case, *U.S. Fish and Wildlife Service vs. Sierra Club*, is expected some time before the end of the term in late June.

Barrett, who is expected to cement a conservative 6-3 majority in court for years, is likely to be subject to closer scrutiny on Wednesday when she takes part in a Philadelphia dispute in which religious rights stand against the protection of non-discrimination of LGBTQ individuals.

She may also hold a key vote in deciding further election-related litigation from Pennsylvania or other states after election day.

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Everything You Need to Know About Justice Barrett's First Case at the Supreme Court

<https://lawandcrime.com/supreme-court/everything-you-need-to-know-about-justice-barretts-first-case-at-the-supreme-court/>

[COLIN KALMBACHER](#) Nov 2nd, 2020, 1:58 pm

U.S. Supreme Court Justice Amy Coney Barrett appeared skeptical of too much Freedom of Information Act (FOIA) sunlight during her first stab at oral arguments in an [environmental law case](#) heard on Monday.

Stylized as [U.S. Fish and Wildlife Service v. Sierra Club](#), the dispute concerns whether internal decision-making documents are part of [a formal process under the Endangered Species Act](#) and therefore able to be accessed by the public.

The Sierra Club previously submitted a FOIA request for records relevant to years-old rulemaking done by the Environmental Protection Agency (EPA) concerning the regulation of cooling water intake structures that are harmful to endangered marine animals. The EPA denied the request but the Sierra Club sued and won in both district and appellate court. The government, which began opposing the public access effort during the Barack Obama administration and which continues to oppose public access under President Donald Trump, appealed up to the nation's high court.

The Sierra Club believes the documents are obtainable under FOIA because they reflect "formal or informal policy on how [the agency] carries out its responsibilities." The government says the documents are not obtainable because they constitute a protected "draft" under [FOIA Exemption 5's "deliberate process privilege,"](#) which typically shields internal agency deliberations from public view.

The American Civil Liberties Union (ACLU), which filed an amicus brief in the dispute, says the case “presents an important opportunity for the Supreme Court to affirm the American public’s right of access to documents outlining government procedures under FOIA and [to] limit the scope for which the government can claim the deliberative process privilege to keep documents secret.”

While questioning the government’s attorney, Barrett leaned toward an appreciation of government trust and secrecy. Picking up on a line of questioning initiated by Justice Brett Kavanaugh, the newly-minted justice suggested a preference for a “bright-line” test or rule that would allow administrative agencies considerable leeway in self-determining whether or not a document actually qualifies as an unobtainable draft.

Here, according to the Sierra Club, the analysis within the so-called “draft” was complete—meaning the document in question was a draft in name only. Additionally, Sierra Club Managing Attorney Sanjay Narayan noted, the document itself was emailed to the EPA and made widely available throughout the agency which led to specific legal actions being made based on the analysis contained in the alleged “draft.”

Politico’s senior legal affairs correspondent Josh Gerstein felt that Barrett’s questioning was “pretty unfriendly” toward FOIA. He argued that favoring such a bright-line rule would likely let any agency “withhold any document stamped draft regardless of underlying facts.”

During her questioning, Barrett also appeared hostile to what she termed a “fact-intensive determination” that would rely on “other factors” beyond the confines of a bright-line rule that would make things easier for courts to handle.

“Or do you not want a line that is that bright?” Barrett asked the solicitor general’s attorney at one point—all-but tipping her hand on the issue.

During his time at the digital dais, Narayan was also grilled by Barrett in a way suggesting she was likely to come down on the side of the government in the case.

Narayan previously outlined the Sierra Club’s preferred legal test or framework, arguing that a so-called “draft” should be obtainable by the public when it has “appreciable legal consequences.”

Justices Clarence Thomas, Samuel Alito and Elena Kagan set the stage for disputing that proposed framework. Each of them argued that the government should be trusted and given the benefit of the doubt when it claims a “draft” is a draft. The Sierra Club attorney pushed back against that argument, noting that the burden is actually on the government to prove that a FOIA exemption applies.

Barrett picked up that standard from her colleagues in notable fashion. She took direct issue with the “appreciable legal consequences” idea by revealing a problematic understanding of how administrative law actually works.

“How can a draft opinion give rise to that legal consequence?” she asked Narayan.

The attorney responded by noting that the relevant legal inquiry is not and should not be whether or not something is labeled a “draft” because the government could simply label any document a “draft” and summarily defeat public access petitions whenever it wanted to if that was the case. This was something that Justice Neil Gorsuch identified as a “problem” in the realm of administrative law.

Narayan responded to Barrett by saying that the court should forget about the internal labeling issue and focus on the analysis contained in the document itself. In the present case, he noted, the agency’s analysis never changed and the so-called “draft” was used to reach an eventual conclusion by other agencies.

Barrett left legal onlookers with the distinct impression that she was reticent to prize the Sierra Club’s arguments in the case.

Notably, liberal Justice Stephen Breyer offered a decidedly pro-FOIA perspective throughout his questioning, pointing out that the so-called “draft” was actually used by the agencies to make decisions. He also gave the appearance of being frustrated and/or pained by the government’s arguments.

Oral arguments wrapped up and the case was submitted on the government’s contention that only a “signed and delivered” document should qualify as a “capital-D Decision” (which is inherently FOIA-able), a position that would leave tens of thousands of agency documents out of public hands per year.

[image via Demetrius Freeman – Pool/Getty Images]
Have a tip we should know? tips@lawandcrime.com
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Final EPA Guidance Procedures Effective November 18, 2020

<https://www.natlawreview.com/article/final-epa-guidance-procedures-effective-november-18-2020>

ARTICLE BY

Thomas C. Berger

Gregory A. Clark

Monday, November 2, 2020

On October 19, 2020, the U.S. Environmental Protection Agency (EPA) published an historic final rule that establishes Agency-wide procedures and requirements for issuing guidance documents consistent with Executive Order 13891 (“Promoting the Rule of Law Through Improved Agency Guidance Documents”).[1]

As we covered in our previous article, the rule defines which documents are “guidance” subject to the rule, establishes general requirements and procedures for certain Agency-issued guidance documents, and specifies additional requirements for guidance documents determined to be “significant.” The final rule defines the term “active guidance document” to mean a guidance document in effect that EPA expects to cite, use, or rely upon. Such active guidance documents must be posted to a single EPA online portal. The rule also establishes procedures for the public to petition for the withdrawal or modification of active guidance documents. Significantly, the final rule adds a procedure that was not included in the proposal, under which the public can petition the Agency for the reinstatement of a rescinded guidance document.[2]

In accordance with E.O. 13891, the rule establishes a single, searchable, and indexed EPA guidance portal for all active guidance documents. Several times this year, the Office of Management and Budget (OMB) extended EPA’s deadline to finalize its guidance portal,[3] with the ultimate deadline expiring on July 31, 2020[4]. While EPA has not indicated any plans to supplement the portal with additional guidance documents, the November 18, 2020 effective date of the guidance rule may provide cover for EPA to add guidance documents to the portal in the next several weeks if requested by industry. By November 18th, any document that is “guidance” under the definitions in the rule should be considered rescinded if it is not posted in EPA’s guidance portal.

As EPA developed its guidance portal, a significant point of contention and concern was the impact on EPA opinions and other correspondence that had been provided to individual companies and trade associations in response to questions regarding compliance and regulatory interpretation. For instance, EPA’s “Applicability Determination Index” serves as a repository of EPA correspondence and opinions concerning the Clean Air Act, and is frequently consulted by regulated parties to understand how these provisions have been applied to other similarly situated companies. Ultimately, EPA determined that the ADI documents were not “guidance” within the scope of the E.O. and EPA’s rule, and posted a clarification on the subportal for the Office of Air and Radiation (OAR):

“EPA’s Office of Air and Radiation notes that certain agency documents, including statements of specific, rather than general, applicability, are excluded from the definition of guidance document under Executive Order 13891 and therefore may be excluded from this guidance portal. Specifically, EPA may exclude communications or statements regarding particular locations or facilities, and correspondences with individual persons or entities. For the same reason, such documents are not deemed to be rescinded by virtue of the fact that they have been excluded from this portal.”[5]

EPA defines the term “guidance document” consistent with the definitions in E.O. 13891 and the Office of Management and Budget’s (OMB) implementing memorandum, which includes the term “technical issue.” EPA states that “[d]ue to the diversity of purpose and content of scientific and technical documents, it would be inconsistent with E.O. 13891 for the EPA to categorically determine whether all scientific and technical documents are ‘guidance documents.’” Accordingly, scientific and technical documents not posted to EPA’s portal must be assessed on a case-by-case basis to determine whether they constitute “guidance” within the meaning of the rule and, thus, whether they are rescinded or still reliable.

The rule also sets forth procedures for the public to petition for the modification, or withdrawal of an active guidance document, or reinstatement of a rescinded guidance document. Information about petitions received (including the title of the relevant guidance document) will be made publicly available. EPA cautions that if a petition does not satisfy the content requirements specified in the rule, EPA may decide not to consider the petition under the rule. The rule states that EPA “should” respond to a petition in a “timely manner,” but must respond no more than 90 calendar days from receipt. EPA may extend the response date one time for any reason but must notify the petitioner as to the basis for the extension and an estimated response date, and may not extend for more than 90 days.

For example, with respect to the Toxic Substances Control Act (TSCA), EPA’s guidance portal includes more than 170 documents.[6] This list includes critical documents on Inventory representation (e.g., TSCA nomenclature), as well as more than ten fact sheets impactful to the 2020 TSCA section 8(a) Chemical Data Reporting Rule. But, as is the case for Clean Air Act “guidance,” many of the most instructive interpretations from the Agency have been provided over the years to individual companies. While the Office of Chemical Safety and Pollution Prevention (OCSPP) subportal does not include a similar clarification as the OAR statement quoted above, similar logic would suggest that companies can and should continue to rely on the historical interpretations provided by Agency staff.

[1] EPA Guidance; Administrative Procedures for Issuance and Public Petitions, 85 Fed. Reg. 66,230 (Oct. 19, 2020).

[2] 84 Fed. Reg. at 66, 239; cf. EPA Guidance; Administrative Procedures for Issuance and Public Petitions, 85 Fed. Reg. 31,104 (May 22, 2020).

[3] By February 28, 2020, each Federal agency was to review and rescind any current unnecessary guidance, provide a mechanism for the public to petition for withdrawal or modification of guidance, and (per the October 31, 2019 Office of Management and Budget implementing memo) establish a single, searchable, indexed website that contains, or links to, all of the agencies’ respective guidance documents currently in effect. See “Memorandum for Regulatory Policy Officers at Executive Departments and Agencies and Managing and Executive Directors of Certain Agencies and Commissions, available at: <https://www.whitehouse.gov/wp-content/uploads/2019/10/M-20-02-Guidance-M...> EPA announced the availability of its public guidance portal on February 28, 2020. Notice of Public Guidance Portal, 85 Fed. Reg. 11,986 (Feb. 28, 2020).

[4] 84 Fed. Reg. at 66,233.

[5] Guidance Documents Managed by the Office of Air and Radiation, available at: <https://www.epa.gov/guidance/guidance-documents-managed-office-air-and-r...>

[6] See Guidance Documents Managed by the Office of Chemical Safety and Pollution Prevention (OCSPP), available at: <https://www.epa.gov/guidance/guidance-documents-managed-office-chemical-...>

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Groups Sue EPA Over Flares At Industrial Facilities

<https://www.wesa.fm/post/groups-sue-epa-over-flares-industrial-facilities#stream/0>

By REID FRAZIER | STATEIMPACT PENNSYLVANIA

2 NOV 2020

Environmental groups are suing the federal government over air pollution from flares at gas processing plants and other industrial facilities.

The EPA is supposed to update its requirements for industrial flares every eight years, but environmental groups say the agency hasn't done so in over 20 years.

In a [lawsuit](#) filed in U.S. District Court for the District of Columbia, the groups are asking the EPA to conduct a review and update the regulations.

The lawsuit says the result of the EPA's current standards are releases of "larger quantities of pollutants that are toxic, smog-forming, or otherwise hazardous to the health of nearby communities" which are "disproportionately located in and near communities of color and lower-income communities."

Flares are used to burn off excess gases at natural gas processing stations, landfills, and other sites. If done properly, flaring can eliminate nearly all hazardous pollutants in the gases they burn.

But the groups say flares at some facilities are faring far worse than that.

An EPA estimate of ethylene plants found that flares were destroying only about 90 percent of the pollutants in the gas.

"And what you really want is you want to flare operating with 98 percent efficiency or above," said Adam Kron, an attorney with the Environmental Integrity project, one of the groups suing the EPA.

Kron said plants will often inject steam into their flares to suppress smoke. But if too much steam is injected, the flares will not burn hazardous pollutants that can be in the waste stream.

"Flares destroy those pollutants and prevent them from getting out there. So if the flares aren't actually doing that, you're winding up with just multiple times more pollutants," Kron said.

An agency spokesperson said the EPA does not comment on pending litigation.

This story is produced in partnership with StateImpact Pennsylvania, a collaboration among WESA, The Allegheny Front, WITF and WHYY.

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EPA Administrator: RFS Waiver Requests to Wait on Court Appeal

The Environmental Protection Agency (EPA) is considering 35 oil refiner requests to waive required blending of renewable fuels, namely ethanol, for the 2019 and 2020 calendar years, according to reporting data on the EPA website. Those waiver requests will not be considered until the courts weigh in on a pending court appeal, according to EPA Administrator Andrew Wheeler.

The Tenth Circuit Federal Appeals Court in January ruled EPA could not grant Renewable Fuels Standard (RFS) waivers for refiners whose earlier, temporary waivers had lapsed. The oil industry has since appealed that ruling.

Wheeler said on the AgriTalk Radio Show on Monday that he will not consider those waiver requests until after the courts have spoken on that appeal.

“The refiners appealed that to the Supreme Court; we’re waiting to see if they take it up, and what they do with that,” Wheeler said. “What I don’t want to be in a position of doing is making a decision one way or the other and then have the court instruct me to reverse it, because it’s much worse to reverse a decision afterwards than it is to just wait for the court to decide. So, I think it would be inappropriate for me to either grant or deny them until that litigation has completely run its course.”

EPA is also considering an additional 17 so-called “gap year” waiver requests, an attempt to get around the Tenth Circuit decision by filling in the years between the initial waiver requests and the current waiver applications. Wheeler said those applications cannot be ruled on by EPA until the Department of Energy completes its review of the requests. EPA earlier this year denied 54 gap year waiver requests and is widely expected to do the same with the remaining 17.

But the hold on the 2019 and 2020 waivers was met with concern from the Renewable Fuels Association (RFA).

“It’s not surprising to hear this excuse from EPA, but it is disappointing,” RFA President and CEO Geoff Cooper told AgWeb. “EPA knows as well as anyone that the chances of the Supreme Court deciding to review the Tenth Circuit decision are incredibly low. The Agency itself didn’t seek an appeal in the Tenth Circuit or in the Supreme Court, which tells me they know the odds of an appeal succeeding are slim to none. It’s time to move forward and put an end to the uncertainty and instability that have plagued EPA’s management of the RFS for the past year. EPA should immediately reject the 17 remaining ‘gap year’ waiver petitions, adopt the Tenth Circuit decision nationwide, and immediately apply the decision to the 35 pending requests for 2019 and 2020 compliance exemptions. Enough is enough.”

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Attorney General Becerra Continues to Push EPA to Complete Required Evaluation of Pesticide Toxic to Pollinators, like Bees, Critical to Agriculture

https://www.einnews.com/pr_news/529826685/attorney-general-becerra-continues-to-push-epa-to-complete-required-evaluation-of-pesticide-toxic-to-pollinators-like-bees-critical-to-agriculture

NEWS PROVIDED BY

[Office of the Attorney General California Department of Justice](#)

November 02, 2020, 20:43 GMT

SACRAMENTO – California Attorney General Xavier Becerra today urged the Environmental Protection Agency (EPA) to revise and recirculate its draft risk assessment of flonicamid, a pesticide toxic to pollinators like bees which are critical to agriculture. Despite evidence showing that flonicamid poses a higher risk to pollinators than previously understood, the EPA has repeatedly failed to collect data from required follow-up studies and continues to move forward with the registration process despite significant information gaps. Earlier this year, Attorney General Becerra expressed concern over the EPA’s risk assessment and manufacturer ISK Biosciences’ application for new uses of flonicamid. In today’s comment letter, Attorney General Becerra once again urges the EPA to review the forthcoming follow-up studies, revise its ecological risk assessment, propose any necessary mitigation, and circulate its findings for public comment prior to issuing a registration decision.

“The Trump Administration’s EPA is failing at one of its most basic jobs by plowing ahead with the registration process for flonicamid before receiving additional data on its impact to pollinators like bees,” said Attorney General Becerra. “California relies on pollination from bees for agriculture, a driving force of our state’s economy. We cannot ignore the environmental and economic implications of this decision – and the EPA cannot ignore its responsibilities under the law. The EPA must do its homework before it allows flonicamid to be used for another 15 years.”

Under the Federal Insecticide, Fungicide, and Rodenticide Act, all pesticides must receive regulatory approval from the EPA before they are put into use. The EPA reviews pesticide registration every 15 years to ensure registration is based on current information regarding the health and environmental impacts of a pesticide’s use. Many pesticides, including flonicamid, have come under increasing scrutiny in recent years for their adverse health and environmental effects. Flonicamid is a pesticide that manages crop pests by preventing them from eating, causing insects to die of starvation or dehydration. New studies submitted by ISK show that the application of the pesticide to crops exposes bees to up to 51 times the amount of flonicamid that would cause them substantial harm, posing significant risks to these pollinators.

Flonicamid’s potential adverse effects on pollinators are of critical concern in California, where pollinators play a critical role in the environment and the economy. Pollination by native bees increases the United States’ agricultural output by more than \$3 billion each year, and over a third of the country’s vegetables and two-thirds of the country’s fruits and nuts are grown in California. Studies show that crop yields increase substantially in areas with denser native bee populations. Yet studies also show that California’s major agricultural regions, such as the Central Valley, have experienced some of the steepest declines in native bee populations anywhere in the country.

On September 2, 2020, the EPA released a Proposed Interim Registration Review Decision for flonicamid that again failed to include and consider additional, required pollinator studies necessary for a registration decision. While the EPA claims that ISK has committed to conducting these studies, it has not committed to reviewing the data from these studies before issuing a final interim decision. In the comment letter, Attorney General Becerra argues that the EPA must gather the necessary data, describe flonicamid’s risks to pollinators, and recirculate its draft ecological risk assessment before re-registering flonicamid.

A copy of the comment letter can be found [here](#).

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EPA excludes ‘zone requirements’ for pesticide applications

<https://www.thefencepost.com/news/epa-excludes-zone-requirements-for-pesticide-applications/>

2 Nov 2020

-The Hagstrom Report

Environmental Protection Agency Administrator Andrew Wheeler on Thursday announced that the agency has changed the regulation for the application of pesticides so that the Application Exclusion Zone applies only within the boundaries of the agricultural establishment and not off the farm.

The change also exempted immediate family members of farm owners from all aspects of the AEZ requirements. EPA said the change means that “farm owners and their immediate family are now able to shelter in place inside closed buildings, giving farm owners and immediate family members flexibility to decide whether to stay on-site during pesticide applications, rather than compelling them to leave even when they feel safe remaining.”

The regulation added new clarifying language so that pesticide applications that are suspended due to individuals entering an AEZ may be resumed after those individuals have left the zone, and simplified criteria to determine whether pesticide applications are subject to the 25- or 100-foot zone.

“Today’s revisions are consistent with the 2018 Pesticide Registration Improvement Act (PRIA),” EPA said. The AEZ requirements are part of EPA’s agricultural Worker Protection Standard regulations.

“Since Day One, the Trump administration has been committed to protecting the health of all our citizens,” said Wheeler. “The changes to the AEZ requirements make it easier to ensure people near our nation’s farms are protected, while simultaneously enhancing the workability of these provisions for farm owners and protecting the environment.”

EPA noted that the original regulation was enacted in 1992 under EPA’s Federal Insecticide, Fungicide, and Rodenticide Act authorities to protect farm workers from pesticide exposures in production agriculture.

The Worker Protection Standard requires owners and employers on agricultural establishments and commercial pesticide-handling establishments to protect employees on farms, forests, nurseries, and greenhouses from occupational exposure to agricultural pesticides.

In 2015, EPA revised the regulation to require agricultural employers to keep workers and all other individuals out of an area called the “application exclusion zone” (AEZ) during outdoor pesticide applications.

The AEZ is the area surrounding pesticide application equipment that exists only during outdoor production pesticide applications, and is described as 25 feet in all directions for ground pesticide applications when sprayed from a height greater than 12 inches, and 100 feet in all directions for outdoor aerial, air blast, air-propelled, fumigant, smoke, mist and fog pesticide applications.

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NIST Researchers Advance Efforts to Accurately Measure Glyphosate Pesticide in Common Foods

<https://www.miragenews.com/nist-researchers-advance-efforts-to-accurately-measure-glyphosate-pesticide-in-common-foods/>

NOVEMBER 3, 2020 4:42 AM AEDT

Pesticides help farmers increase food production, reduce costly damage to crops, and even prevent the spread of insect-borne diseases, but since the chemicals can also end up in human food, it’s essential to ensure that they are safe. For a commonly used pesticide known as glyphosate, concerns exist over how high a level is safe in food as well as the safety of one of its byproducts, known as AMPA. Researchers at the National Institute of Standards and Technology (NIST) are advancing efforts to measure glyphosate and AMPA accurately in the oat-based food products where they frequently appear by developing reference materials.

The Environmental Protection Agency (EPA) establishes tolerances for pesticide levels in food that are still considered safe for consumption. Food manufacturers test their products to make sure they meet EPA regulations. But in order to make sure their measurements are accurate they need a reference material (RM) with known levels of glyphosate with which to compare their products.

There is no reference material available for measuring glyphosate, the active ingredient in the commercial product Roundup, in the oatmeal or oat-based products in which the pesticide is heavily used. However, there are a small number of food-based RMs available for measuring other pesticides. In efforts to develop one for glyphosate and meet the immediate needs of the manufacturers, NIST researchers have optimized a test method to analyze glyphosate in 13 commercially available oat-based food samples to identify candidate reference materials. They detected glyphosate in all the samples, and they also found AMPA (short for aminomethylphosphonic acid) in three of the samples.

The researchers have published their findings in the journal Food Chemistry.

For decades, glyphosate has been one of the most dominant pesticides in the United States and worldwide. In 2014 alone, 125,384 metric tons of glyphosate were used in the U.S, according to a 2016 study. It is a herbicide, a type of pesticide for destroying weeds or unwanted plants that are detrimental to crops.

Sometimes pesticides remain in small amounts, known as residues, on food produce. In the case of glyphosate, it can also break down into AMPA, which can also remain on fruit, vegetables and grains. The potential effects of AMPA on human health are not well understood and remain an active area of study. Glyphosate is also heavily used on other cereals and grains such as barley and wheat, but oats are a special case.

“Oats are unique, as grains go,” said NIST researcher Jacolin Murray. “We chose oats as our first material because food producers use the glyphosate as a desiccant to dry out the crop before they harvest it. Oats tend to have a high amount of glyphosate.” Crop desiccation allows for an earlier harvest and improves uniformity of crops. Because of its wide use, glyphosate is typically found at higher levels compared with other pesticides, according to co-author Justine Cruz.

The 13 oat samples in the study included oatmeal, slightly to highly processed oat-based breakfast cereals, and oat flour from conventional and organic farming practices.

Credit:

J. Murray/NIST

Samples of oatmeal and oat-based products analyzed for glyphosate and AMPA.

The researchers analyzed the samples for glyphosate and AMPA using a modified method of extracting glyphosate from solid food, in conjunction with standard techniques known as liquid chromatography and mass spectrometry. In the first method, the solid sample is dissolved into a liquid mixture where glyphosate is removed from the food. Next, in liquid chromatography, the glyphosate and AMPA in the extract sample are separated from other components in the sample. Finally, mass spectrometry measures the mass-to-charge ratio of ions to identify the different chemical compounds in the sample.

Their results showed that the lowest levels of glyphosate were detected in the organic breakfast cereal sample (26 nanograms per gram) and organic oat flour sample (11 nanograms per gram). The highest levels of glyphosate (1,100 nanograms per gram) were detected in conventional instant oatmeal samples. AMPA levels were much lower than glyphosate levels in both organic and conventional oatmeal and oat-based samples.

All glyphosate and AMPA levels in the oatmeal and oat-based cereals were well below the EPA tolerance of 30 micrograms per gram. “The highest glyphosate levels we measured were 30 times lower than the regulatory limit,” said Murray.

Based upon the results of this study and initial discussions with stakeholders interested in using a RM for oatmeal and oat-based cereals, the researchers discovered that it might be beneficial to develop a low-level RM (50 nanograms per gram) and high-level one (500 nanograms per gram). These RMs would be beneficial to agricultural and food testing labs as well as food producers, who need to test their source material for pesticide residues and to have an accurate standard against which to compare their measurements.

NIST's RMs are used not just in the United States but also worldwide, so it was important for researchers also to consider the regulatory limits abroad, such as in Europe, where the limit is 20 micrograms per gram.

"Our researchers have to balance the needs of food testing labs based in the U.S. and beyond to make reference materials with a global reach," said NIST researcher Katrice Lippa.

Researchers were able to identify three potential RM candidates for glyphosate in oat-based cereals and two candidates for AMPA. They were also able to conduct a preliminary stability study that showed glyphosate was stable in oats over a six-month period at a consistent temperature of 40 degrees Celsius, which is important in developing a future RM, which could potentially be based on one or more of these products.

Next, the researchers plan to evaluate the feasibility of the RMs through an interlaboratory study and then conduct more long-term stability studies of both glyphosate and AMPA in their materials. The NIST team will continue to engage stakeholders to make sure that the RM will meet their needs.

Paper: Justine M. Cruz and Jacolin A. Murray. Determination of glyphosate and AMPA in oat products for the selection of candidate reference materials. Food Chemistry. In press. DOI: [10.1016/j.foodchem.2020.128213](https://doi.org/10.1016/j.foodchem.2020.128213) /Public Release. The material in this public release comes from the originating organization and may be of a point-in-time nature, edited for clarity, style and length. View in full [here](#).

Tags: [Chemical](#), [EPA](#), [Europe](#), [Farming](#), [future](#), [Human](#), [NIST](#), [organic](#), [press](#), [production](#), [Safety](#), [study](#), [technology](#), [testing](#), [United States](#), [vegetables](#)

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Researcher finds pesticide label discrepancies, could hurt honey bees

https://www.capitalpress.com/ag_sectors/orchards_nuts_vines/researcher-finds-pesticide-label-discrepancies-could-hurt-honey-bees/article_33a74f9e-1acb-11eb-9e3d-6f9768068106.html

By SIERRA DAWN McCLAIN Capital Press

2 November 2020

More than 30% of pesticide labels fail to follow Environmental Protection Agency recommendations and provide incorrect information about their toxicity to pollinators, according to a study by Oregon State University Extension Service.

Experts say inconsistent labels may cause unintentional pesticide misuse, which could threaten honey bees, worth some \$20 million to American agriculture.

The research, experts say, may help regulators identify labels that need amending. In the meantime, it has prompted OSU Extension to offer better education to pesticide applicators.

The discovery was made by an unsuspecting young student.

"I kind of stumbled onto this research project by accident," said Matthew Bucy, a pesticide registration specialist at the Oregon Department of Agriculture.

Bucy is a recent OSU graduate. As an undergraduate honors student last year, his job was to read through hundreds of pesticide labels and update a data table. The work was tedious, and Bucy said he did not anticipate his big discovery.

After studying 232 insecticide labels, Bucy said a pattern became clear. About a third of the labels deviated from EPA recommendations. Many, for example, didn't list accurate details about their residual or acute toxicity.

Bucy's accidental discovery evolved into a major research project that didn't end when he graduated.

Rose Kachadoorian, pesticide specialist at ODA and formerly an adviser on Bucy's thesis committee, said the pesticides weren't misbranded or mislabeled intentionally; they were simply outdated.

"They're just old. A lot of the language is what we call legacy language," said Kachadoorian.

Kachadoorian said the problem of outdated labels seems to stem from the fact that the EPA is continuously short-staffed.

Kachadoorian, Bucy and experts at the American Association of Pesticide Control Officials formed a working group to address the labeling problem, but because EPA is understaffed, the researchers say they expect changing label language will take time.

Kachadoorian said her vision is also to create a more standardized labeling system for pesticides. Look at FDA pharmaceutical labels, she said, and they all have similar formatting. You know where to look on the label to find things like dosage and possible side effects. But pesticide labels look different across companies, making information harder to find. Kachadoorian's working group will encourage more consistency.

In the meantime, the researchers say ODA and OSU are working to improve applicator education workshops and materials to include information about how to interpret a label that doesn't adhere to EPA recommendations.

Andony Melathopoulos, assistant professor and pollinator specialist for OSU Extension, has trained more than 6,700 applicators in Oregon since 2018 and plans to train more with the new information.

The researchers encourage farmers to take advantage of recertification courses, educational materials and events so they will be better equipped to protect pollinators.

Bucy said his groundbreaking research as a student led to his job in pesticide work at ODA, where he hopes to continue helping the agricultural community.

"I read a few hundred labels. Why not read a few hundred — or thousand — more?" he said.

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Justices Fret Over FOIA Evasion but Debate Sierra Club Standar

By Ellen M. Gilmer

2 Nov 2020

The U.S. Supreme Court seemed wary Monday of limiting government disclosure requirements, but unsure where to draw the line in a complex clash over Endangered Species Act records.

The case, U.S. Fish and Wildlife Service v. Sierra Club, has big implications for government transparency, in environmental contexts and beyond. It attracted even broader interest as newly confirmed Justice Amy Coney Barrett sat for oral argument for the first time.

Hearing the case remotely, Barrett and her colleagues pressed both sides to explain what legal test the high court should apply when deciding whether draft documents are subject to public disclosure under the Freedom of Information Act. The dispute centers on federal wildlife agencies' draft opinions that a proposed EPA regulation would harm endangered species.

"I think there's a concern lurking in this case that executive branch officials might just stamp 'draft' on everything and therefore avoid FOIA," Justice Brett Kavanaugh said.

Kavanaugh was echoing the Sierra Club's position—backed by other environmentalists, industry groups, and media advocates—that a ruling for the government would allow agencies to skirt disclosure requirements.

But he and other justices stopped short of embracing the group's views, in light of the government's contention that the records at issue were far from being finalized.

"We're just very, very far from that here," assistant to the U.S. solicitor general Matthew Guarnieri told the court. "Here, we are in the molten core of the deliberative process privilege where it's clear from the record that the agencies" didn't adopt the conclusions from the draft.

The records at issue fall under a FOIA exemption for government documents that are pre-decisional, and part of an agency's deliberative process, Guarnieri said.

'Legal Consequences'

The years-long dispute before the Supreme Court started when the Environmental Protection Agency issued a 2011 proposed regulation for cooling water intake structures at power plants. The federal agencies that oversee species impacts—the Fish and Wildlife Service and the National Marine Fisheries Service—drafted opinions that said the proposal was likely to harm threatened and endangered species.

The EPA then revised its proposal, and the wildlife services declared the regulation would cause "no jeopardy" to rare animals and plants. The Sierra Club used FOIA to get internal records from that decision-making process, and the agencies withheld the earlier draft opinions.

The U.S. Court of Appeals for the Ninth Circuit in 2018 ordered the government to turn over the records, and the Supreme Court agreed to review the case this year.

Some of the Sierra Club's typical legal foes, including the National Association of Home Builders and the American Forest Resource Council, are backing the environmental group in the case, focused on protecting their own access to government documents that steer major regulatory decisions.

Sierra Club lawyer Sanjay Narayan argued the Supreme Court should rule that FOIA requires disclosure of draft documents when they have “appreciable legal consequences.”

‘Tailor-Made’

In the rulemaking process at issue in the case, the EPA changed its regulation after the wildlife agencies drafted their findings about harm to endangered species, Narayan said. The agencies virtually never put such “jeopardy findings” in final form, so drafts function as a final decision, he said.

The majority of justices appeared to agree that putting a “draft” label on a document isn’t enough to exempt it from FOIA. But they seemed unsure about the Sierra Club’s proposed test for discerning which records qualify for the FOIA exemption.

“The operative effects test seems sort of tailor-made for the facts here, but it doesn’t seem to be very helpful in most cases,” Chief Justice John Roberts said.

Barrett raised concerns about how to apply the “appreciable legal consequences” test, questioning whether the EPA’s decision to revise its proposed regulation was simply the practical, rather than legal, consequence of hearing the wildlife agencies’ initial views.

Justice Elena Kagan likewise said she was uncertain about how to judge what happened between the EPA and the wildlife agencies, given federal officials’ declarations that the wildlife agencies’ conclusions really hadn’t been settled by their top officials.

Agencies should have some space for collaboration and back-and-forth in the rulemaking process, Justice Neil Gorsuch said. “Are you at all concerned that a more invasive rule might deter this kind of productive discussion?” he asked.

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EPA official to visit brownfield sites in Oneida, Herkimer counties

<https://www.timestelegram.com/story/news/2020/11/02/epa-official-visit-brownfield-sites-oneida-herkimer-counties/6126043002/>

Donna Thompson

Times Telegram

2 Nov 2020

U.S. Environmental Protection Agency’s Region 2 Regional Administrator Pete Lopez will be in the area Friday to visit three area brownfield sites, including the Duofold site in Ilion and the former Charlestown Mall property bordering Utica and Frankfort.

Lopez will also tour the Navigation Center at 500 Harbor Way in Rome, according to the Herkimer County Industrial Development Agency (IDA).

“We are excited to have Pete Lopez come to not only Herkimer County, but our entire region,” IDA Executive Director John Piseck said in a statement. “Herkimer County is dedicated to the improvement and redevelopment of brownfield sites.”

The Environmental Protection Agency’s Brownfields Program provides grants and technical assistance to communities, states, tribes and others to assess, safely clean up and sustainably reuse contaminated properties.

“In communities across New York and the nation, EPA is working with local and state governments to pave the way for an effective reuse of properties that have been impacted by contamination,” Lopez said in a statement. “Through its Brownfields program, EPA has leveraged over \$33 billion and created more than 170,000 jobs nationwide. I am so pleased to join the Herkimer County Industrial Development Agency and our other partners for this tour as the IDA shares its program successes and highlights areas in need of additional attention and support.”

The EPA Brownfields Program, which began in 1995, has provided nearly \$1.6 billion in grants to assess and clean up contaminated properties, according to the IDA.

The CharlesTown complex, located on Bleecker Street, was destroyed in an Aug. 27 fire after years of smaller fires and vandalism. Built in the early 1900s, the structure fell into disrepair in the early 2000s. Prior to the August fire, a developer was planning to remove and sell the brick and timber from the complex and clear the site for future development, officials have said.

With the Duofold site, environmental consultants took soil samples in Ilion in late August as part of the second phase of the Environmental Site Assessment for a brownfield redevelopment project. Cleanup is the next step at the site, which has been vacant for more than two decades, said John Piseck, executive director of the Herkimer County IDA. The village of Ilion purchased the Duofold property in March 2019.

The Navigation Center in Rome opened in 2017 in Bellamy Harbor Park in the city’s Erie Canal waterfront.

Donna Thompson is the government and business reporter for the Times Telegram. For unlimited access to her stories, please subscribe or activate you digital account today. Email her at donna@timestelegram.com.

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Trucking companies’ illegal dumping destroys nearly 20 acres of sensitive wetland

<https://cdllife.com/2020/trucking-companies-illegal-dumping-destroys-nearly-20-acres-of-sensitive-wetland/>

By [Wimberly Patton](#)

November 2, 2020

Two companies have been fined and tasked with the restoration of nearly 20 acres of wetland damaged by their years of illegal dumping.

Back in 2008, Bobby Wolford Trucking & Salvage, Inc. began delivering fill material and construction debris to Karl Frederick Klock Pacific Bison, LCC three miles east of Monroe, Washington.

For the next three years, Bobby Wolford Trucking & Salvage, Inc. proceeded to dump enough fill material and construction debris into the property’s wetlands to fill 16 Olympic swimming pools, along with an immeasurable amount of debris into the Skykomish River and various other streams running through the property.

Bobby Wolford Trucking & Salvage, Inc. also took further advantage of its access to the Klock property by charging other companies to dump their waste materials in the same locations – all without obtaining any sort of permits, reports [Herald Net News](#).

According to the Environmental Protection Agency (EPA), the illegal dumping directly impacted three acres of wetlands and more than 2,000 feet of streams. These changes have altered the “structure and function” of the floodplain, and as a result, 17 acres of wetland are in need of salvaging.

“This affected the very structure and function of the Skykomish River floodplain and one of its tributaries,” said Chris Hladick, EPA regional administrator.

Since the discovery of the illegal dumping, the U.S. Department of Justice and the EPA have reached a settlement with Bobby Wolford Trucking & Salvage, Inc. – The trucking company must pay \$300,000 in civil penalties and will be required to perform extensive restoration work to the damaged land. This restoration work will include the removal of 40,000 cubic yards of fill and debris from the oxbow of the Skykomish River and nearby wetlands. The trucking company will also be required to pay for the replanting of native vegetation destroyed by the dumping.

Because this land is home to multiple threatened species of fish, including Steelhead, Chum, Coho, Pink and Chinook salmon as well as Bull Trout, its restoration is crucial to the health of the land, so the nearby Tulalip Tribes will be overseeing the restoration work, as well as replanting 17 acres of the damaged property.

The settlement has also facilitated the transfer of 188 acres of the Karl Frederick Klock Pacific Bison, LLC property to the Tulalip tribes, who will maintain the land in “perpetual conservation.”

“It’s gratifying that the case has been resolved in a way that provides such benefit to the environment,” Hladick said.

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EPA Rated Ranges For All U.S Electric Model Cars

<https://enrg.io/epa-rated-ranges-electric/>

2 Nov 2020

The electric vehicle market is now blooming with variety. As a customer, you’d want to spend your money on the best electric car. For many people, the best car means the car that has the best driving range.

The driving range is a measure of how far the car can go until it runs out of juice and completely stops. But, how do we actually know the car’s true driving range before we buy it? Should we trust automobile manufacturers driving range numbers? How do they even get those numbers?

The United States Environmental Protection Agency (EPA)

As with any measurement system, a standardized metric is generally a good idea. For electric vehicles, each country or region usually has its own standards. Out of all EV range standards, many favor the US EPA rating system because it is more comprehensive than the rest.

EPA-Rated Range

Every vehicle must undergo a series of tests to achieve its EPA-rated range. The general testing procedure is to charge the battery fully, park the vehicle overnight, and then, the following day, drive the vehicle over successive city cycles until the battery is empty.

After running successive city cycles, the battery is then recharged from a normal AC source, and the vehicle's energy consumption is determined (in kW-hr/mile or kW-hr/100 miles) by dividing the kilowatt-hours of energy needed to recharge the battery by miles travelled by the vehicle. The recharge energy includes any losses due to inefficiencies of the manufacturer's charger.

The city driving range is determined by the number of miles driven over the city cycle until the vehicle can no longer follow the driving cycle.

The motivation behind the EPA's rating is to give a strong basis for comparing electric vehicles. There are three EPA testing environments:

City

This estimate represents how people drive electric vehicles daily as they commute in cities. This test includes driving in the morning and driving in the busy traffic, following stoplights, and other road signs.

Highway

This estimate represents how people drive electric vehicles on interstate highway roads. The highway usually has free-flowing traffic with no stops, but moderate-to-high wind speeds, which put the car's aerodynamic prowess to the test.

The testing method is the same with the City testing method, but instead of city streets, the car is driven on highways.

Combined

This estimate represents a combination of City and Highway tests, with a 55% to 45% ratio respectively.

After the vehicle completes these tests, the vehicle will receive an EPA-rated driving range, as well as EPA-rated fuel efficiency. Please take a look at [this](#) official document for a complete guide and all-electric vehicle EPA-rated figures.

The Most Important Figure

The EPA produces a figure that says X miles. It will always be the 'number' people search for. That's the driving range of the electric vehicle. The driving range is a measure of how far an electric car can go until the battery is depleted. There are three factors determining an electric car's drive range:

The Car Specification

This includes the battery capacity, engine efficiency, total body weight, and temperature management system. For example, the Tesla Model 3 has a 54 kWh Lithium-Ion battery on the base model. It weighs 1.611kg, including the electric motor that weighs 46kg.

Environment

One of the most impactful factors for an EV is the temperature. Low temperatures make batteries suffer and perform worse. Another factor is the wind. Massive wind speeds will increase the vehicle's drag, thus, wasting energy and reducing the driving range.

Driver

The driver also plays a part in determining the driving range. Low speeds will make the battery last longer because of less friction. High speeds will drain the battery faster because aerodynamic drag increases exponentially as the car goes more quickly. Alternating rapidly between low and high speeds will drain the battery fastest. Improper battery management, like not preheating your car before going out, can also impact battery health.

Conclusion

With the surge in the popularity of electric vehicles, consumers need a standardized measurement for an electric vehicle's driving range. The United States Environmental Protection Agency (EPA) created the EPA-rated range. The EPA has several testing procedures that mimic closely to the real-life usage of an electric car. However, because there are so many environmental and user usage factors the EPA could not cover, it's wise to assume the real driving range is slightly less than the EPA-rated range. The Tesla Model S Long Range Plus holds one of the highest EPA ratings, with 647km combined (55% city driving and 45% highway driving) and 111mpge fuel efficiency.

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Added cleanup for pollution behind Conowingo Dam will cost \$53 million a year. Who will pay for it?

https://www.bayjournal.com/news/pollution/added-cleanup-for-pollution-behind-conowingo-dam-will-cost-53-million-a-year-who-will/article_b696b502-1d32-11eb-a879-c726ea2a949c.html

[Karl Blankenship](#)

Nov 2, 2020 Updated 22 min ago

The cost to reduce the added nutrient pollution spilling over the Conowingo Dam now has a price tag: at least \$53 million a year.

That's the rough estimate contained in a draft strategy aimed at finding ways to offset the additional nutrients passing through the dam to the Chesapeake Bay, now that the dam's 14-mile long reservoir is filled with sediment.

The Susquehanna River flows through the Conowingo Dam, 10 miles upstream from the Bay. A draft strategy for reducing an increased load of pollution from behind the dam is open for public comment until Dec. 21.

[Dave Harp](#)

The dam is located on the Susquehanna River in Maryland 10 miles upstream of the Bay. Most of the cleanup work proposed in the draft plan, released for comment Oct. 14, would take place upstream in Pennsylvania, primarily on farms.

The plan envisions attracting private investors to front the money needed to jump-start the work but said that will only happen if the states and U.S. Environmental Protection Agency commit to paying them back — something that has not happened so far.

Beth McGee, director of science and agricultural policy at the Chesapeake Bay Foundation, said she liked much of the proposed strategy, but said its success depends on whether the state-federal Bay Program comes up with a way to pay for it. "It's only a plan," she said. "If it doesn't get implemented, we're no better off."

The dam, completed in 1929, actually helped to reduce Bay pollution for decades by trapping sediments and associated nutrients. It's long been known that the reservoir would eventually fill, allowing sediment and nutrients to flow more freely into the Chesapeake. When the latest Bay cleanup plan was drafted in 2010, though, that wasn't expected to occur until after the 2025 deadline that states are striving to meet.

But that has already happened, and computer models estimate an additional 6 million pounds of nitrogen and 260,000 pounds of phosphorus now reach the Bay in a typical year.

That's enough to keep the Chesapeake's 2025 clean water goals out of reach.

With states already struggling to meet their individual pollution reduction goals, the Bay Program in 2018 decided to have an outside group develop a separate plan to offset nutrient increases from the dam and come up with a way to finance it.

Last year, the EPA awarded nearly \$600,000 to the Center for Watershed Protection, Chesapeake Conservancy and Chesapeake Bay Trust to tackle the job.

"It's a massive lift," said Bryan Seipp, a watershed planner with the Center for Watershed Protection, who led the team. "It took decades and decades for this material to build up behind the dam. Trying to solve a problem that took decades to create in a fraction of that time is a challenge."

The team examined nearly a dozen options, some of which included actions outside the Susquehanna watershed that would achieve the same benefits to the Bay, before settling on the recommended strategy. Most of the other options cost more — one came in at \$368 million a year.

The lowest cost strategy came in at \$49.5 million dollars annually but relied solely on reductions from agricultural lands in the Susquehanna basin. Seipp said that raised concerns that an overreliance on agriculture would result in taking too much farmland out of production.

The selected plan focuses entirely on the Susquehanna watershed — primarily in Pennsylvania. It also identifies places where nutrient control actions would be most effective and suggests more than a dozen on-the-ground pollution control practices that would be the most cost-effective to implement.

The plan still relies mostly on agriculture, but also seeks a sliver of nutrient reductions from developed lands.

The strategy cautioned, though, that its estimated costs are "likely low." They do not include, for example, the cost of providing technical support staff to work with landowners on runoff control practices.

The draft also opened the door to other alternatives, such as dredging built-up sediment from behind the dam. Maryland is planning a pilot study to determine whether that is feasible.

It also raises the possibility of extending the deadline for meeting Conowingo goals beyond 2025.

Seipp said there is no firm timeline to issue a final strategy. That, he said, would hinge on public comments that may require plan revisions, as well as more clarity about funding.

A separate financing strategy will be released in December that is intended to identify ways to attract private money to support the plan.

That would spare cash-strapped states from having to pay up front and could speed implementation. But, the draft plan cautioned, "The only way that private investors will make money, at least in the near future, is if the public sector is compelled, for whatever reason, to pay them back for their investments."

Although states in the watershed chipped in funding to help develop the plan, there has been no commitment about who would ultimately pay for the actual work.

The team writing the financing strategy said in a Sept. 23 memo that it assumes the Bay states “will have the ultimate responsibility” for funding the plan. Without that commitment, it said, implementation “will be very limited in scale and impact.”

Some state officials have hoped that other funding mechanisms will arise, such as philanthropic support that doesn’t need to be paid back. But efforts to lure outside money have been elusive.

At the time that the Bay Program agreed to create the Conowingo plan, state and federal officials were hoping that a settlement between Maryland and Exelon — the utility that owns the dam — would generate tens of millions of dollars a year for the cleanup. The utility needs approval from the state before it can get a new federal license to operate the dam.

Earlier this year, though, the state and Exelon struck a deal that committed just \$19 million over the 50-lifespan of the license for that purpose. Some environmental groups and lawmakers have sought to block that agreement from being finalized.

“We still think that they should be held accountable for their downstream impacts, and we would love to see some of their dollars go upstream as opposed to what’s currently in the settlement agreement,” McGee said.

The [draft Conowingo Watershed Implementation Plan](#) is open for comment until Dec. 21. Comments should be submitted to CWIP@chesapeakebay.net.

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Supreme Court weighs public records law as Sierra Club challenges FOIA exemptions

<https://thehill.com/policy/energy-environment/524055-supreme-court-weighs-public-records-law-as-sierra-club-challenges>

BY [REBECCA BEITSCH](#) - 11/02/20 04:13 PM EST

The Supreme Court on Monday heard a case likely to have implications for whether federal agencies can withhold from the public documents showing the government’s internal deliberations.

The case was brought by the Sierra Club after they were denied documents associated with an Environmental Protection Agency (EPA) water intake regulation that the Fish and Wildlife Service (FWS) initially determined would be harmful to endangered species.

The EPA took that draft opinion under advisement, ultimately drafting a rule the service found would not adversely affect protected species.

At stake in the case are the deliberations that took place at FWS and whether the government is obligated to turn over documents that can show heated debates over government policies.

The Freedom of Information Act (FOIA) allows agencies to withhold documents that show internal deliberations. This is designed to encourage frank and open discussion on policies. It’s an exemption used

frequently by all sorts of government agencies, often to the chagrin of reporters and public interest groups seeking to unearth the rationale behind government decisions.

But the Sierra Club argues the FWS stretched that rule too far, holding back the release of documents like its draft biological opinion that were largely final and should be public.

“The problem with the services' standard is that it boils down to ‘it's privileged if we say it's privileged,’” said Sanjay Narayan, who argued the case on behalf of the Sierra Club, arguing doing so could undermine FOIA’s key role: “making sure the public knows how agencies are actually using the authority Congress gave them.”

“It is really important to know why the services are saying what they're saying, at least when they effectively foreclose a proposed regulation,” he added in reference to the influence FWS’s work had in changing the EPA’s water intake rule.

The justices asked the Sierra Club to define when documents are complete enough to require release under FOIA.

Justice Neil Gorsuch posited a rule could go too far in one direction, having a cooling effect at agencies that could hinder dialogue.

“Without adequate room to kind of back down privately, the government sometimes winds up making worse decisions rather than better ones,” he said, noting that EPA’s second iteration of the rule was preferred by environmental groups.

“It does seem like that because of the back and forth privately, thanks to the services' intervention, EPA came up with a rule that might be better from your perspective. How do we balance that concern and allow agencies sufficient room to maneuver privately to avoid having, you know, to embarrass themselves later and allow them to save face to get to better policy results?”

The government argued such draft documents should be shielded from the FOIA process.

“The general rule here should be a clear bright-line test that, until a biological opinion is signed and formally issued, there is no final decision,” argued Matthew Guarnieri, a Justice Department lawyer.

“The biological opinion here is really no different than a judge's or a court's opinion, which is not actually final until it's adopted by the judge and issued as an official opinion.”

A decision in the case, *U.S. Fish and Wildlife Service v. Sierra Club*, is expected some time before the term ends in late June.

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[Trump's latest order spreads fear among government scientists](https://www.nature.com/articles/d41586-020-03063-0)
<https://www.nature.com/articles/d41586-020-03063-0>

The directive could make it easier to fire some agency researchers and hire others for political reasons.
BY Nidhi Subbaraman

An executive order issued by US President Donald Trump has sown confusion and fear among government scientists in the country. Announced by the White House on 21 October, the order creates a job category for government workers — such as scientists — that makes it easier to fire people shifted into these positions. Researchers fear that this is yet another attack in a four-year war on science waged by the Trump administration.

“I’ve read it over a few times, and it’s pretty frightening,” says one senior scientist at the Environmental Protection Agency (EPA), who wished to remain anonymous to protect their job. The broadness of the order is of particular concern, the scientist says, noting that it appears to make it easier to “get rid of people who don’t toe the right political line”.

What Trump’s Supreme Court pick could mean for science

According to the order, workers to be tapped for the new category are those in “confidential, policy-determining, policy-making, or policy-advocating” roles. This could include scientists who help to craft policies on issues such as environmental regulation. It is not yet clear which workers would be placed in this category, but agency leaders have been given 90 days to create a preliminary list of positions that might be affected — due just one day before Trump would be inaugurated, if he were re-elected during the current US presidential race. If Trump loses to former vice president Joe Biden, Biden could quickly overturn the order.

“What we’re looking at here is the president laying the groundwork for a pretty dramatic change,” says Lisa Manheim, who studies presidential powers at the University of Washington School of Law in Seattle.

Most government civil servants, including scientists, are hired from a competitive pool of applicants rather than being appointed because of their political affiliation, and they have significant job protections under US law. The new job category would not offer the same protections, and would enable the hiring of applicants who don’t have to compete against a pool of qualified candidates.

The Trump administration has described the executive order as a way to remove poorly performing employees from their jobs. But agency scientists question that motive.

Science under siege: behind the scenes at Trump’s troubled environment agency

“That’s a red herring, or an excuse by the administration to insert political hacks into the agency,” says a marine biologist at the National Oceanic and Atmospheric Administration (NOAA) who oversees scientists at a regional office and wishes to remain anonymous to protect their job.

Jacqueline Simon, director of public policy at the American Federation of Government Employees, a union representing 700,000 US government workers, says the order doesn’t state how many people will be affected, but she estimates that it could run into the hundreds of thousands of current federal employees, including scientists, lawyers, statisticians and technical experts who help to draft rules within US agencies. The US government employs about two million people.

To take effect, the order will need to clear legal challenges. The National Treasury Employees Union in Washington DC, which represents 150,000 employees at 33 agencies, has sued the government to dismiss the order, claiming that the White House has not justified the need for such a shift.

If put into action, the order would be most keenly felt by scientists involved in policymaking. When agencies draft policies, in-house experts discuss and challenge the proposed rules to ensure that decisions are evidence-based, says Tim Whitehouse, executive director of Public Employees for Environmental Responsibility, an organization that provides legal support to government whistle-blowers, in Silver Spring, Maryland. Under the order, says Whitehouse, scientists might not participate freely in crafting policies out of fear of losing their jobs.

How Trump damaged science — and why it could take decades to recover

Simon expects the hardest-hit science agencies to include NOAA, which monitors the climate, manages fisheries, tracks storms and issues weather forecasts; the EPA, which regulates air and water pollution from power plants and factories; and the Bureau of Land Management, which regulates land use by the oil and gas industry. “If Donald Trump wants to leave the executive branch in a state of chaos, this is a brilliant way to do it,” she says.

The White House and the EPA did not respond to Nature’s requests for comment. A spokesperson for the Department of Commerce, in which NOAA is embedded, said the agency would comply with the executive order’s request within the provided deadline.

Applied the “wrong way”, the order could be “a devastating blow to the independence of science throughout the federal government”, says Thomas Burke, an environmental-health scientist at the Johns Hopkins Bloomberg School of Public Health in Baltimore, Maryland, who served as a science adviser at the EPA under former president Barack Obama’s administration.

“This is just another bomb thrown at the civil service and thrown at the government,” says Whitehouse.

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Agency

Conservative Court to Consider Four Key Upcoming Environment Cases • The Revelator

<https://therevelator.org/conservative-court-environment-cases/>

One legal doctrine that courthouse reporters are eyeing closely is that which currently authorizes the EPA to control greenhouse gas emissions.

November 2, 2020 - by Joseph A. Davis

The Supreme Court term that began in October will touch on a few significant cases involving environmental law.

Just as importantly, it could see attempts to elevate cases from lower courts to take advantage of the Court’s new solid conservative majority (newly confirmed Associate Justice Amy Coney Barrett was sworn in Oct. 26, just in time to hear oral arguments on virtually all of this term’s cases).

While the few environmental cases will not be blockbusters, they may offer telling clues about the court’s future trajectory on the environment.

One legal doctrine that courthouse reporters are eyeing closely is that which currently authorizes the U.S. Environmental Protection Agency to control greenhouse gas emissions of carbon dioxide under the Clean Air Act.

The Court's landmark 2007 decision in *Massachusetts v. EPA* prevailed by a scant 5-4 vote (with Chief Justice John Roberts siding with the majority). The new 6-3 conservative majority could overturn that precedent if it were inclined to.

Right now there are no cases clearly headed to the Supreme Court to test this principle. But some might be expected.

The following cases have been scheduled by the Court for argument during the current term:

Texas v. New Mexico

This case involves a water dispute involving the two states, which means the Supreme Court has "original jurisdiction" (that is, it goes straight to the high court). The case involves interpretation of the Pecos River Compact that allocates the water of the Pecos River between Texas and New Mexico. The disagreement arose from a 2014 tropical storm, when Texas had to release water from the Red Bluff Reservoir because it was full. The question is whether this unused water counts toward Texas' allotment. The eight sitting justices heard arguments (subscription required) in the case Oct. 5.

Florida v. Georgia

This case actually was already "decided" in 2018, but it is hardly over. It involves a dispute between the two states over water from the Chattahoochee, Flint and Apalachicola Rivers. It went before the court during preliminary phases twice and the court appointed a judicial adjunct known as a special master. The question before the Court this term is an appeal by Florida of a particular decision by the special master. It is not clear whether the Court will give it a hearing or make a decision.

BP P.L.C. v. Mayor and City Council of Baltimore

Baltimore sued 26 multinational oil and gas companies in state court, claiming they had injured the city by causing climate change. It's actually one of a growing set of climate liability cases. Two of the companies sought to have the case moved to federal court, where they thought they would have a better chance to prevail. A federal district and a federal appeals court left the case in state court. The companies appealed those rulings to the Supreme Court.

U.S. Fish and Wildlife Service v. Sierra Club

This case will test what documents must be made public when federal agencies are considering rules under the Endangered Species Act. It goes back to a 2011 EPA's proposed rulemaking over industrial cooling water intakes. EPA's rulemaking involved extensive back-and-forth communications with NOAA Fisheries and the U.S. Fish and Wildlife Service. In the course of that interchange, EPA switched from effectively saying the rule would harm aquatic life to saying it would not. The Sierra Club, an environmental advocacy group, sought records of the interchange under the Freedom of Information Act. The agencies withheld some of the documents under the "deliberative process" exemption to FOIA. Some observers see the case as a challenge to the recent trend toward broader interpretations of the deliberative exemption. The Society of Environmental Journalists has joined 28 media groups in supporting disclosure. For more, check out the recent SEJournal WatchDog Opinion column on the case.

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EPA announces 5-year dicamba extension; North Dakota ag officials pleased
https://bismarcktribune.com/news/agnews/epa-announces-5-year-dicamba-extension-north-dakota-ag-officials-pleased/article_754c83de-748d-5b90-8494-203d2fd15e81.html

The Environmental Protection Agency recently approved two dicamba weedkiller products and extended the registration of another, a move welcomed by North Dakota agricultural officials but not by some environmental groups.

EPA approved new five-year registrations for XtendiMax with VaporGrip Technology and Engenia Herbicide, and extended the registration for Tavium Plus VaporGrip Technology. The registrations are for use on dicamba-tolerant cotton and soybeans.

“After reviewing substantial amounts of new information, conducting scientific assessments based on the best available science, and carefully considering input from stakeholders we have reached a resolution that is good for our farmers and our environment,” EPA Administrator Andrew Wheeler said in a statement last week.

The registrations include new control measures to help manage off-site drift. Dicamba has been used on tens of millions of acres of soybeans and cotton nationwide. But there have been widespread complaints about dicamba-based herbicides drifting off-target and contaminating neighboring fields.

The EPA in June canceled the registrations for dicamba products Xtendimax, FeXapan and Engenia following a federal appeals court ruling that the government must revoke its approval. North Dakota's Department of Agriculture canceled its state registrations of the products, meaning sales were no longer allowed, though farmers who had already bought product for the crop season could still use it.

“The EPA has reviewed available information and science and has conducted assessments to ensure any concerns expressed by the latest court decision have been addressed,” Agriculture Commissioner Doug Goehring said in a statement. “We appreciate the certainty this gives our farmers in order to make plans for the next growing season.”

The agriculture department will review the labels once they're submitted as part of the state registration process, Goehring said.

The American Soybean Association also praised the EPA's move, as did North Dakota's congressional delegation and the North Dakota Farm Bureau.

“This past year, farmers who used dicamba faced uncertainty when the courts stepped in, causing added stress to agriculture,” Farm Bureau President Daryl Lies said. “The new registration relieves some of the stress farmers have as they start to plan for next spring.”

This decision is viewed as a victory for BASF and Bayer, which utilize dicamba products in their seed lines. But some environmental groups plan to challenge the decision.

“Rather than evaluating the significant costs of dicamba drift as the 9th Circuit told them the law required, EPA rushed re-approval as a political prop just before the election, sentencing farmers and the environment to

another five years of unacceptable damage,” said George Kimbrell, legal director at Center for Food Safety. “We will most certainly challenge these unlawful approvals.”

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Agriculture

EPA excludes ‘zone requirements’ for pesticide applications

<https://www.thefencepost.com/news/epa-excludes-zone-requirements-for-pesticide-applications/>

News | 14m ago

Environmental Protection Agency Administrator Andrew Wheeler on Thursday announced that the agency has changed the regulation for the application of pesticides so that the Application Exclusion Zone applies only within the boundaries of the agricultural establishment and not off the farm.

The change also exempted immediate family members of farm owners from all aspects of the AEZ requirements. EPA said the change means that “farm owners and their immediate family are now able to shelter in place inside closed buildings, giving farm owners and immediate family members flexibility to decide whether to stay on-site during pesticide applications, rather than compelling them to leave even when they feel safe remaining.”

The regulation added new clarifying language so that pesticide applications that are suspended due to individuals entering an AEZ may be resumed after those individuals have left the zone, and simplified criteria to determine whether pesticide applications are subject to the 25- or 100-foot zone.

“Today’s revisions are consistent with the 2018 Pesticide Registration Improvement Act (PRIA),” EPA said. The AEZ requirements are part of EPA’s agricultural Worker Protection Standard regulations.

“Since Day One, the Trump administration has been committed to protecting the health of all our citizens,” said Wheeler. “The changes to the AEZ requirements make it easier to ensure people near our nation’s farms are protected, while simultaneously enhancing the workability of these provisions for farm owners and protecting the environment.”

EPA noted that the original regulation was enacted in 1992 under EPA’s Federal Insecticide, Fungicide, and Rodenticide Act authorities to protect farm workers from pesticide exposures in production agriculture.

The Worker Protection Standard requires owners and employers on agricultural establishments and commercial pesticide-handling establishments to protect employees on farms, forests, nurseries, and greenhouses from occupational exposure to agricultural pesticides.

In 2015, EPA revised the regulation to require agricultural employers to keep workers and all other individuals out of an area called the “application exclusion zone” (AEZ) during outdoor pesticide applications.

The AEZ is the area surrounding pesticide application equipment that exists only during outdoor production pesticide applications, and is described as 25 feet in all directions for ground pesticide applications when

sprayed from a height greater than 12 inches, and 100 feet in all directions for outdoor aerial, air blast, air-propelled, fumigant, smoke, mist and fog pesticide applications.

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Chemicals

[USDA Releases 2019 Pesticide Data Report](#)

<https://drgnnews.com/2020/11/02/usda-releases-2019-pesticide-data-report/>

Pierre, SD, USA / DRGNews

Jody Heemstra

Nov 2, 2020 8:45 AM

The USDA published its 2019 Pesticide Data Program's Annual Summary. The report shows that nearly 99 percent of the tested samples had pesticide residues below benchmark levels established by the Environmental Protection Agency. The two agencies work together every year to identify which foods get tested on a rotating basis. The Agricultural Marketing Service works with state agencies to collect and analyze pesticide residue levels of selected foods. In 2019, the agencies tested 9,697 samples of fresh and processed foods, including fruits and vegetables, as well as rice and oats. USDA has tested a variety of commodities for more than 25 years, which included tests on fresh and processed fruits and vegetables, dairy, meat, poultry, grains, fish, rice, specialty products, and water. USDA tests a wide variety of domestic as well as imported foods, with a strong focus on food consumed by infants and children. The EPA relies on the Pesticide Data Program findings to conduct dietary risk assessments and to ensure that any pesticide residues in foods remain at levels that EPA has determined to be safe. USDA uses the data to help American farmers improve agricultural practices and to implement the Department's Integrated Pest Management Program. The Food and Drug Administration and EPA are notified immediately of any test showing residue levels that could pose a public safety risk.

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Chemicals

[EPA Issues Annual Progress Report on Pesticide Reregistration Performance Measures and Goals](#)

<https://www.jdsupra.com/legalnews/epa-issues-annual-progress-report-on-57660/>

Bergeson & Campbell, P.C.

On October 28, 2020, the U.S. Environmental Protection Agency (EPA) published a notice in the Federal Register announcing the availability of its progress report in meeting its performance measures and goals for pesticide reregistration during fiscal year (FY) 2018 (2018 Report). 85 Fed. Reg. 68327. Section 4(l) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) requires EPA to publish information about EPA's annual achievements in this area. The 2018 Report discusses the completion of tolerance reassessment and describes the status of various regulatory activities associated with reregistration. The 2018 Report also provides the total number of products reregistered and products registered under the "fast-track" provisions of FIFRA. The report is available at EPA-HQ-OPP-2014-0125. Comments can be submitted on or before December 28, 2020.

EPA's completed product reregistration actions totaled 177, short of EPA's goal of 400 actions. The table below details the actions completed in FY 2018.

Table 1. Product Reregistration Actions Completed in FY 2018 (as of September 30, 2018)

Actions FY 2018

Product reregistration actions	19
Product amendment actions	33
Product cancellation actions	125
Product suspension actions	0
Total actions	177

EPA also states that 4,193 products had product reregistration decisions pending at the end of FY 2018, compared to 4,370 products with product reregistration decisions pending at the end of FY 2017, and 4,621 products with product reregistration decisions pending at the end of FY 2016. Regarding changes in the universe of products in product reregistration, EPA states: "an increase or decrease can be due to fluctuations in numbers of products associated with product-specific Data Call-Ins (PDCIs)."

The number of applications for registration requiring expedited processing (i.e., "fast-track" applications) that EPA considered and approved has been more consistent in recent years, with 2,422, 2,574, and 2,303 in 2016, 2017, and 2018, respectively.

[\[View source.\]](#)

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Chemicals

EPA Announces Largest-Ever FIFRA Civil Settlements

<https://www.natlawreview.com/article/epa-announces-one-its-largest-ever-fifra-civil-settlements>

Monday, November 2, 2020

Key Takeaways:

What Happened: EPA settled with Electrolux for nearly \$7 million in connection with the import of household appliances with antimicrobial-treated air filters that were not registered under the federal pesticides law.

Who's Impacted: Manufacturers, distributors, and importers of products that incorporate antimicrobial substances or make antimicrobial claims.

What Should Companies Do in Response: Evaluate the regulatory status of any products that make antimicrobial claims to ensure compliance with federal registration, production, and recordkeeping requirements. Violations of these requirements may result in stop sale orders, product seizures, or civil penalties.

The U.S. Environmental Protection Agency (EPA) last month announced one of the largest civil penalties ever issued under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). In its October 6, 2020 Consent Agreement and Final Order (CAFO) with Electrolux Home Products, Inc. (Electrolux), EPA settled hundreds of

alleged FIFRA violations in connection with Electrolux's import and distribution of approximately 420,000 dehumidifiers and air conditioners that each contained a filter manufactured with nanosilver. With a \$6,991,400 penalty, EPA's action is consistent with the Agency's continued enforcement focus on imported pesticides and also appears to reflect a trend toward significantly higher FIFRA civil penalty assessments in recent years.

Unless otherwise exempted under FIFRA, any pesticide product imported into the United States for distribution or sale first must be registered with EPA. In addition, imported pesticides must comply with specific production, labeling, and notification requirements under FIFRA. A "pesticide" is defined to mean "any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest," and a "pesticide product" refers to the pesticide in the particular form (including composition, packaging, and labeling) in which the pesticide is distributed or sold. Under FIFRA, pests include microorganisms found on surfaces or in the air or water.

Significantly, the Electrolux products characterized by EPA as pesticides in this matter were not chemical products themselves. Instead, they were all household dehumidifiers and air conditioners, each of which contained a filter manufactured with nanosilver, which is an antimicrobial substance. As described in EPA's CAFO, the products were marketed with claims such as "cleans air by removing harmful bacteria" and "reduces bacteria . . . for a healthier, more comfortable environment." According to EPA, these appliances were intended to provide an antimicrobial benefit to users and, in light of the incorporated nanosilver, therefore required registration under FIFRA prior to their sale or distribution.

EPA's penalty calculation was informed by its FIFRA Enforcement Response Policy, which includes detailed guidance for computing FIFRA penalties based on case-specific factors. In its CAFO, EPA specifically notes that the \$6,991,400 penalty reflected a 20 percent "good faith" reduction of the gravity-based penalty amount, in acknowledgment of Electrolux's efforts to bring the products into compliance with FIFRA after EPA's discovery of the alleged violations. These efforts included an EPA-authorized "rework plan" that allowed Electrolux to consolidate its products at specified locations and, under the supervision of an independent monitor, systematically replace the products' nanosilver filters with filters that do not contain any pesticidal substances, and remove any pesticidal claims on the labeling and in associated marketing materials.

Manufacturers, Distributors, and Importers Should Assess FIFRA Product Compliance

In light of this latest enforcement action, importers, manufacturers, and distributors of products that incorporate antimicrobial substances or make antimicrobial claims should closely evaluate their status under FIFRA and confirm full compliance with EPA's requirements.

Determining FIFRA regulatory status requires careful assessment of each product's composition and claims, which should be frequently revisited as product design and marketing strategies change over time. Some product manufacturers and suppliers may not be aware that they are subject to FIFRA in the first place. While certain products containing antimicrobial substances may be eligible for exemption under FIFRA as "treated articles," those that do not meet all of EPA's applicable criteria remain at enforcement risk. In addition, products that do not contain any antimicrobial substances at all may still be subject to regulation under FIFRA as "pesticidal devices" if they are intended to operate against pests by physical or mechanical means.

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[Germinator Mobile Sanitizing and Disinfecting Opens First Wisconsin Franchise](#)

Germinator Mobile Sanitizing and Disinfecting, a broad-spectrum sanitization, disinfection and deodorization provider, is proud to announce its newest location launching as a part of its rapid national expansion. The company has opened a Germinator franchise in Kenosha, Wisconsin. Owned and operated by Mitch Costescu and Mike Roscioli, the franchise will offer door-to-door sanitizing and disinfecting services to commercial and residential properties throughout Kenosha and Racine.

“We’re excited for our entrance into the Wisconsin market as we continue our rapid expansion across the country,” said Jeff Gill, CEO of Germinator. “We aim to provide businesses and residents with a sense of assurance knowing that they have sanitized and hygienic environments during these difficult times. Mike and Mitch have strong ties to the community, and we look forward to welcoming them aboard to offer the highest quality of service.”

With a background in the food and beverage industry – Mike and Mitch understand the importance of proper sanitization and disinfection as businesses begin to reopen amid the pandemic. They were inspired to open a Germinator franchise to not only utilize at their own restaurant, but to be able to extend the service to businesses and residents throughout the area.

“The pandemic has brought upon an increased need for creating and maintaining hygienic environments,” said Mike Roscioli. “We are proud to work with Germinator to offer our services to the community. The company’s process is highly effective and uses no harsh chemicals or fumes.”

Germinator’s patent-pending methodology is the most unique and cost-effective means of providing enhanced antimicrobial protection for businesses and residences. The company first test surfaces for ATP using a luminometer to detect light that can come from cellular activity. This measurement immediately provides the level of clean on a surface.

The next step is the application of Germinator’s Genesis surface treatment. Genesis is a one-step cleaner and broad-spectrum sanitizer and disinfectant treatment that harnesses the power of hypochlorous acid (HOCl). Derived from naturally occurring minerals, Genesis not only eliminates odors at their source but kills a wide range of bacteria, including *Staphylococcus aureus*, MRSA, *Salmonella enterica* and *Pseudomonas aeruginosa*, and viruses including norovirus, rotavirus and adenovirus on hard, non-porous, environmental surfaces. It meets the Association of Official Agricultural Chemists (AOAC) germicidal spray standards for Hospital Grade Disinfection and is on the EPA’s N List of products determined to meet the criteria for use against SARS-CoV-2, the virus that causes COVID-19. As a result, this treatment will eliminate bacteria and viruses that may reside in your environment without the use of harsh chemicals or fumes.

Following Genesis, Germinator applies its Shield, a water-based quaternary ammonium compound that imparts a durable bacteriostatic finish. It is EPA-registered as effective against mold, mildew, algae and odor-causing bacteria. This application creates an invisible barrier that helps combat deterioration and discoloration and promotes freshness for up to three months.

The Genesis and Shield products are applied by using an electrostatic sprayer, which is the most efficient and effective means of delivering the products to the intended application sites. After Germinator’s surface

treatment and protectant services, the company retests ATP levels to ensure the surfaces have achieved the intended results.

Upholding the highest standards of sanitization and disinfecting, Germinator makes claims that are scientifically supported and within EPA regulations. Germinator's research and process are validated by the Germinator Scientific Advisory Board. The board is made up of key leaders such as Dr. Roscoe M. Moore, Jr. —who was an Assistant to the United States Surgeon General for five administrations; Dr. Harold Smith, who has extensive expertise in cell biology, molecular biology and biochemistry, along with decades of experience leading sponsored research on infectious diseases for the National Institutes of Health (NIH); Dr. David Miller, the Protocol Chair of University of Rochester Center for AIDS Research Community Advisory Board; and Chad S. Johnson, Esq., a Harvard-trained corporate, legislative, and regulatory attorney with significant experience in advising health and biotechnology companies.

"During these unprecedented times, the need to focus on sterilizing agents within our country's airports, public spaces, and offices in order to decrease the spread of viral pathogens such as coronavirus is essential," states Dr. Moore. "I am extremely happy to be a part of the Germinator team and lend my expertise to what I feel is an immense asset to the containment effort."

Germinator was founded by Jeff Gill in 2015 and began national franchising in December 2019. The company continues to rapidly expand across the United States. Germinator's mission is to provide communities with an effective method of proper sanitizing and disinfecting for businesses and households.

With Germinator, society can now have greater peace of mind and the freedom to live or work in a sanitized and disinfected environment. Businesses and residents in Kenosha and Racine can learn more by visiting <https://germinatorkenosha.com/> or calling (866) 545-0243.

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Pollution

[Missouri State receives EPA Pollution Prevention Grant](#)

<https://news.missouristate.edu/2020/11/02/missouri-state-receives-epa-pollution-prevention-grant/>

The grant of \$45,710 will help Missouri reduce waste, conserve energy and save money.

November 2, 2020 by University Communications

During Pollution Prevention (P2) Week, the U.S. Environmental Protection Agency (EPA) named Missouri State University as one of its grant recipients to support pollution prevention.

"This grant will allow MSU faculty, staff and students to assist Missouri manufacturers in their efforts to reduce waste, conserve energy and save money through pollution prevention technical assistance and training," said Doug Neidigh, MSU's sustainability coordinator.

About the project

The project will provide on-site pollution prevention technical assistance and training to Missouri manufacturers to help them adopt source reduction practices.

MSU is the administrator for the project and will partner with Missouri University of Science and Technology's (S&T) engineering program to implement it.

"This grant is an exciting opportunity for MSU and S&T students to be a part of the EPA project and gain valuable training and experience in the field of pollution prevention," said Dr. Sanjay Tewari, civil engineering professor at S&T and co-program manager.

Project goals will include:

Assessments for reducing waste at the source and energy conservation/efficiency.

Written reports of recommendations.

Opportunities for MSU and Missouri S&T student interns to assist with project implementation.

MSU's Management Development Institute and the Small Business Development Center will provide training sessions. They will equip manufacturing company personnel with the knowledge and skills to perform their own assessments and implement P2 opportunities.

About the Pollution Prevention Act

The Pollution Prevention Act focuses industry, government and public attention on reducing the amount of pollution through cost-effective changes in production, operation and raw materials use.

This year marks 30 years since the passage of the act.

The investment in production practices provides long-term benefits in pollution reduction and prevention.

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[Lincoln County Dairy Owner Admits to Violation of Clean Water Act](#)

<https://newsradio1310.com/lincoln-county-dairy-owner-admits-to-violation-of-clean-water-act/>

SHOSHONE, Idaho (KLIX)-A Lincoln County dairy and its owner has agreed to pay a fine for violating the Clean Water Act after discharging manure water into a nearby canal in 2017. According to U.S. Attorney Bart Davis, Andrew Fitzgerald, of Shoshone, and owner of 4 Brothers Dairy, Inc., pleaded guilty last week to unlawful discharge of pollutant into a water of the United States, a misdemeanor.

As part of the plea agreement, the dairy and Fitzgerald will pay fines and enroll in what is called the Environmental Protection Agency's CAFO National Pollution Discharge Elimination System permit program with Idaho; the dairy will pay a fine of \$95,000 and Fitzgerald will pay a fine of \$35,000.

In February of 2017, after a record precipitation and record snowpack during the winter, extreme runoff occurred at the 4 Bros dairy. According to the U.S. Attorney's office, Fitzgerald and the dairy negligently caused discharge of manure laden water into the Milner Gooding Canal at three spots, which lead into the Malad River and eventually to the Snake and Columbia rivers. "My office takes very seriously the responsibility of protecting Idaho's precious natural resources," said U.S. Attorney Davis said in a prepared

statement. “We will not hesitate to hold accountable any company or individual that pollutes United States waterways located in Idaho. This prosecution reflects what can be accomplished by working collaboratively with the EPA and our partner agencies in the State of Idaho.”

Sentencing is set for January of 2021 for Fitzgerald and the dairy. The judge has taken into account the plea agreement, however the underlying penalty could include five years of probation and a fine of up to \$25,000 per day for the dairy and one year of prison for Fitzgerald and one year of supervised release and five years of probation, including a fine of up to \$25,000 per day.

Read More: Lincoln County Dairy Owner Admits to Violation of Clean Water Act |
https://newsradio1310.com/lincoln-county-dairy-owner-admits-to-violation-of-clean-water-act/?utm_source=tsmclip&utm_medium=referral
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[Justice Amy Coney Barrett hears her first case since confirmation](https://www.washingtontimes.com/news/2020/nov/2/justice-amy-coney-barrett-hears-her-first-case-con/)
<https://www.washingtontimes.com/news/2020/nov/2/justice-amy-coney-barrett-hears-her-first-case-con/>

By Alex Swoyer - The Washington Times - Monday, November 2, 2020
Justice Amy Coney Barrett heard oral arguments in her first case Monday since being confirmed to the high court last week in a dispute weighing access to government records by an environmental activist group.

Instead of making her first high court appearance inside the courtroom, the newly minted justice participated in her first Supreme Court case virtually due to the coronavirus pandemic.

During the teleconference hearing, Justice Barrett quizzed the government lawyer about what factors a court should examine to determine if an agency official labeled a document in such a way to escape disclosure to the public under the Freedom of Information Act.

The Sierra Club, an environmental protection organization, wanted access to documents that detail the Environmental Protection Agency’s proposed regulations issued in 2011 for water-cooling intake structures. Factories and plants take in water from lakes and rivers to cool their facilities.

The EPA moved to regulate the design and operation of the water intake structures since they could cause harm to aquatic life under the Clean Water Act. The agency consulted with the Fish and Wildlife Service and the National Marine Fisheries about the impact of the regulations as part of the Endangered Species Act.

The Sierra Club filed a Freedom of Information Act request to obtain the opinions issued from the Fish and Wildlife Service and the National Marine Fisheries on the impact of the EPA’s proposed rule.

The lower court sided with the activist group and against the federal government, which withheld some of the records, claiming they were only part of a pre-decisional process and not final adopted documents by the EPA.
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Barrett sits for first Supreme Court argument

<https://thehill.com/regulation/court-battles/523973-barrett-sits-for-first-supreme-court-argument>

Justice Amy Coney Barrett on Monday participated in her first Supreme Court oral argument after joining the bench last week following a contentious Senate confirmation process.

Chief Justice John Roberts welcomed her ahead of arguments in a case involving an environmental group seeking access to Environmental Protection Agency (EPA) records.

"It gives me great pleasure on behalf of myself and my colleagues to welcome Justice Barrett to the court," Roberts said.

Barrett did not participate last week in a series of closely watched court rulings involving disputes over extensions to mail ballot due dates in Pennsylvania and North Carolina.

Monday's arguments were held by telephone, as part of the Supreme Court's coronavirus safety measures.

Roberts asked the first set of questions, followed by the other justices in order of seniority, with Barrett going last.

"I want to pick up on this thread that Justice Kavanaugh was just exploring with you," Barrett told Matthew Guarnieri, a Justice Department lawyer who argued for the government's interest in keeping the EPA records secret under an exemption to the Freedom of Information Act (FOIA).

"You said that if a government official simply stamped 'draft' on it and sent it over [...] in order to avoid FOIA disclosure requirements, you said that a court might look at other factors to determine whether it's still final," she said. "What other factors would a court consider?"

A decision in the case, U.S. Fish and Wildlife Service v. Sierra Club, is expected some time before the term ends in late June.

Barrett, who is expected to cement a 6-3 conservative majority on the court for years, will likely face greater scrutiny on Wednesday when she participates in a dispute out of Philadelphia that pits religious rights against nondiscrimination protections for LGBTQ people.

She may also hold a key vote in deciding any additional election-related litigation from Pennsylvania or other states after Election Day.

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